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6320 - **PURCHASES**

This policy establishes the minimum system of purchasing rule s and regulations that are to be followed by the Cabell County Board of Education.

This policy is to be used and followed by all personnel involved in the acquisition and disposal of commodities and services in the performance of their duties.

Introduction

- A. The overall objective of the purchasing function is to acquire the goods and services necessary to provide the essential services for which the Board is responsible.
- B. The Board is responsible for the purchasing, receiving, safeguarding, and disposing of all goods and services obtained for use by the Cabell County Schools. This authority is hereby delegated to the Superintendent and his/her designated purchasing director.
- C. All procurement transactions shall be conducted in a manner that provides full and open competition, consistent with the ethical standards specified in State and Federal statutes, West Virginia State Board of Education policy 8200, and all local practices and procedures.
- D. Procedures for the review of all proposed procurements shall be established to ensure that only necessary items are purchased.
- E. If written specifications are required, they shall be written in such a manner as to maximize and encourage competition.
- F. No Board member, officer or employee shall participate in the selection, award, or administration of a contract or purchase order with a related party, or where a conflict of interest, real or apparent, exists.
- G. No Board member, officer, or employee shall solicit or accept gratuities, favors, or anything of monetary value from contractors, vendors, or parties to any awards, agreements, or contracts. This prohibition does not apply to unsolicited gifts of nominal value, which is recognized by the West Virginia Ethics Commission to be a gift whose value is less than \$25.00 per year.
- H. Awards will be made only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

- I. The County will explore whether the goods and services being purchased are available from a Statewide contract or a purchasing alliance, such as the Government Purchasing Alliance or the Southern Region Education Board, before going to the open market.

Purchase Responsibilities

A. Pursuant to WV Code 11-8-26 no funds shall be expended or obligations incurred:

1. in an unauthorized manner;
2. for an unauthorized purpose;
3. in excess of the amount allocated to the fund in the levy order;
4. in excess of the funds available for current expenses.

B. Pursuant to WV Code 18-9B-10, the Board shall:

1. authorize the expenditure of funds and incur obligations only in accordance with the budget and the expenditure schedule;
2. authorize transfers between items of appropriation only with the prior written approval of the State Board of Education.

Requisitions and Purchase Orders

- A. Pursuant to the requirements of WV Code 18-9B-9, the County shall maintain a requisition and purchase order system on the West Virginia Education Information System (WVEIS) whereas as an approved, pre-numbered purchase order is issued to the successful vendor prior to an order for a commodity or service being placed.
- B. Purchase orders, are not required for refunds, reimbursement of travel expenses, the distribution of faculty senate funds to the individual schools in the County, and utilities.
- C. Purchase orders are also not required for purchases of commodities and services made through the use of the County's purchase card system. Pursuant to the requirements of WV Code 18-9B-9, and to maintain budgetary controls, the funds shall be encumbered in the West Virginia Education Information System (WVEIS). In addition, all requirements specified in Policy 6423, Use of Credit and Purchasing Cards, related to the purchase card program shall be followed, including individual transaction limits, monthly transaction limits, and maximum number of transactions.
- D. A copy of each approved purchase order shall be retained for the file. The file copy may be retained either on paper or electronically and the original approval signatures must be available for subsequent review.
- E. No purchase order shall be issued in excess of the funds available in the current year or which obligate the funds of a subsequent year. Purchase order shall not be issued prior to the end of a fiscal year for delivery and payment after July 1st, in excess of the amount available in the current year's budget.

Open Ended Contracts, Price Agreements, and Blanket Purchase Orders

- A. The County may use open-ended contracts, price agreements, or blanket purchase orders to obtain commodities or services of a repetitive nature rather than issue a purchase order for each individual purchase.
- B. The Superintendent or designated purchasing director may solicit requirements for similar commodities and services to determine the best methods for acquisition.
- C. Open-ended contracts or price agreements shall be used only in situations where the commodity and price are known through a competitive bid process, but the quantity needed is not, such as food products used by child nutrition program.

- D. Blanket purchase orders shall be used in situations where there is normally a large volume of small dollar purchases of a repetitive nature and it is difficult to determine in advance exactly which products are needed, such as in facility or vehicle maintenance activities. Whenever practical, blanket purchase orders should be issued, with consideration of the bidding requirements, on a periodic basis throughout the year, such as on a monthly or quarterly basis, to maintain budgetary controls.

Purchases of Commodities and Services

- A. Commodities and services shall be purchased in accordance with the procedures specified in this policy.
- B. The competitive method used is determined by the threshold limits below. These limits are based on the best estimate of the Superintendent or designated purchasing director at the time the bid prices are solicited.
- C. The threshold level to be used shall be determined by the total estimated cost of the item being purchased, which is the unit cost multiplied by the quantity.
- D. The bid method selected will be considered to be the appropriate method unless the lowest bid received exceeds the maximum dollar threshold of the bidding method selected by ten percent (10%). If the lowest bid exceeds the threshold by more than ten percent (10%), the bid must be re-bid using bid requirements with a higher dollar threshold level.
- E. Purchases shall not be separated into a series of separate requisitions or purchase orders, for the purpose of circumventing the applicable threshold limits of these competitive bidding procedures.
- F. Commodities may only be purchased from a retail outlet that charges a membership fee, when it is determined to be in the best interest of the County. The membership fee shall be taken into consideration in determining the total estimated cost. Membership fees shall not be paid for individual employees to become members under any circumstances, nor shall a County's membership card be used by employees for personal purchases.
- G. Services may be procured without basing the selection of the vendor solely on price. The cost can be negotiated without the use of competitive bids; however, Requests for Proposals shall be utilized whenever possible and the Cabell County Board of Education shall cause to be established the procedures and criteria for evaluating the proposals received.
- H. Documentation of the criteria and selection process shall be retained for review. (See the Records Retention Schedule in AG 8310A for the period of time that the records must be retained.)

Competitive Bid Threshold Limits: Competitive Bid Threshold Limits:

- A. Purchases of commodities costing less than \$5,000:
1. Competitive bids are encouraged but not required.
 2. An approved purchase order is required before the merchandise or services are ordered.
- B. Purchases of commodities costing \$5,000 or more but less than \$10,000:
1. Competitive bids are required.
 2. A minimum of three (3) verbal quotes must be obtained, whenever practical.
 3. Bids may be solicited by telephone, internet, mail, or by visiting the vendor.
 4. Documentation must be maintained of all quotes obtained, recording the name of the vendor, name of the vendor's representative, name of the County's representative seeking the quote, date, commodity, and price.
 5. Refer to the Records Retention Manual issued by the Office of School Finance for the period of time that the documentation is to be retained.
 6. A form for recording these quotes is provided in Form 6320 F1.

7. An approved purchase order is required before the merchandise or service is ordered.

C. Purchases of commodities costing \$10,000 or more but less than \$25,000:

1. Competitive bids are required.
2. A minimum of three (3) written bids must be obtained, whenever practical.
3. Bids may be solicited by telephone, internet, or mail, but a written bid must be submitted by the vendor.
4. A "no bid" is not to be considered a received bid, so sufficient requests should be solicited to assure that at least three (3) actual bids are received, whenever practical.
5. All bids received must be retained for public review and inspection during normal business hours. Refer to the Records Retention Manual issued by the Office of School Finance for the period of time that the bids are to be retained.
6. An approved purchase order is required before the merchandise or service is ordered.

D. Purchases of commodities costing \$25,000 or more but less than \$50,000:

1. Competitive bids are required and bids shall be solicited from at least three (3) known suppliers whenever practical, using advertising media such as newspapers, the internet, trade journals, purchasing bulletins, other media considered advisable, or mass mailings.
2. A good faith effort must be made to solicit as many competitive bids as practical, providing them adequate time to submit proposals.
3. The invitation for bids, shall include all specifications and pertinent attachments, and shall define the items or services sufficiently for the bidder to properly respond.
4. The Board may waive the requirement to advertise when a vendor is considered to be the sole source for the item being purchased, when it is determined to be in the best interest of the County, or when professional, technical, or specialized services are being acquired under an agreement. All waivers shall be well documented and those based on a best interest determination shall be approved by the Superintendent.
5. Any and all bids may be rejected if there is a sound documented reason.
6. The request for bids shall be retained for public review and inspection during normal business hours. After the bid is awarded, all criteria and evaluations used in making the selection, as well as all bids received from vendors, shall be retained for public review. (Refer to the Records Retention Manual issued by the Office of School Finance for the period of time that the bids are to be retained.)
7. An approved purchase order is required before the merchandise or service is ordered.

E. Purchases of commodities costing \$50,000 or more:

1. The solicitation for bids shall specify that the bids are to be received in the form of sealed bids.
2. The request for bids shall be publicly advertised using as legal advertisements in local newspapers, the internet, trade journals, purchasing bulletins, mass mailings or other media considered advisable; adequate time must be provided to allow interested bidders sufficient time to submit their responses prior to the date set for the opening of bids.
3. The invitation for bids shall include all specifications and pertinent attachments and shall define the items or services sufficiently for the bidder to properly respond.
4. All bids will be publicly opened at the time and place specified in the invitation for bids.
5. The County may waive the requirement to advertise when a vendor is considered to be the sole source for the item, when it is determined to be in the best interest of the County, or when professional, technical, or specialized services are being acquired under an agreement. All waivers shall be well documented, and those based on a best interest determination must be approved by the Board of Education.

6. Any and all bids may be rejected if there is a sound documented reason.
7. The request for bids shall be retained for public review and inspection during normal business hours. After the bid is awarded, all criteria and evaluations used in making the selection, as well as all bids received from vendors, shall be retained for public review. (Refer to the Records Retention Manual issued by the Office of School Finance for the period of time that the bids are to be retained.)
8. An approved purchase order is required before the merchandise or service is ordered.

Alternative Procurement

- A. Equipment and other commodities or services may be purchased directly from a vendor without competitive bidding, if any of the following conditions exist:
1. The item cannot be obtained through ordinary purchasing procedures.
 2. The item is unique, or is not available from any other source (sole source).
 3. The item is available from the State, a RESA, or another county, provided the price, availability, and quality are comparable to those in the open market.
 4. The item is available from a Statewide contract and "piggybacking" by local governmental entities is permitted in the contract.
 5. The item is available from a GSA Schedule and the supplier is willing to sell to a County in the State at the same or lower price.
 6. The item is available from a sheltered workshop.
 7. The item is available from a local purchasing cooperative, such as a RESA or a group of county boards that are working together to use their combined purchasing volume to obtain more advantageous pricing through economies of scale.
 8. The item is available from a legitimate government purchasing cooperative that has already obtained competitive bids that meet the requirements of this policy, such as the Association of Educational Purchasing Agencies (AEPA), the U.S. Communities Purchasing Alliance, or The Cooperative Purchasing Network (TCPN).
 9. The item is a used vehicle or piece of equipment and its purchase is determined by the Superintendent, acting as the purchasing director or designated purchasing director to be in the best interest of Cabell County Schools.
- B. Documentation of the justification for not following the competitive procurement procedures shall be maintained.

Exemptions from Competitive Bid Requirements

- A. The following items or services may be purchased by the county without advertisement or obtaining competitive bids.
1. Accounting services and audits exclusive of the annual audit of the County's financial statements.
 2. Any advertisement placed directly with newspapers, trade magazines, or similar publications. However, radio, broadcast television, or cable television advertising; any indirect placement, promotional items; or advertising consultant services are not exempt.
 3. The purchase of and service to artwork and historical items.
 4. Attorneys and law firms.
 5. Auditing contracts between governmental agencies.
 6. Entertainers.

7. Facilities Rentals.
 8. Medical fees, including but not limited to fees for medical services (behavioral and physical) from individual doctors, psychologists, dentists, clinics, hospitals, audiologists, county medical examiners, physical and occupational therapists, behavioral counseling and evaluations, etc. for individual students.
 9. Postage, including stamps, metering, overnight services.
 10. Software maintenance.
 11. Expenses related to student activities, including but not limited to (lectures, entertainers, athletic events, referees, and teachers for staff development).
 12. Investigate services, subject matter experts and witnesses for administrative hearings and legal procedures.
 13. Subscriptions and publications, including but not limited to newspapers, textbooks, and publications (electronic and hard copy) purchased directly from the publisher.
 14. Training activities, including but not limited to lectures, honorariums, copyrighted test and training materials, test monitors, and examination proctors, where competition is not available.
 15. Tuition, stipends, accreditation and registration fees.
 16. Utilities regulated by the Public Service Commission.
 17. Livestock and fish stock for vocational programs.
- B. Documentation of the justification for not following competitive procurement procedures shall be maintained.

Construction Projects

- A. Competitive bids shall be solicited for every construction project exceeding \$25,000 in total cost except for emergency repairs to building components and systems. Pursuant to WV Code 5-22-1 et seq., the term emergency repairs shall mean repairs that, if not made immediately, will seriously impair the use of building components and systems or cause danger to those persons using the building components and systems.
- B. Following the solicitation of such bids, the contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond.
- C. The Board may reject any or all bids and solicit new bids on the project. (WV Code 5-22-1 et seq.)
- D. Any solicitation of bids shall include no more than five (5) alternates. "Alternates" means any additive options or alternative designs included in a solicitation for competitive bids that are different from and priced separately from what is included in a base bid. Alternates, if accepted, shall be accepted in the order in which they are listed on the bid form. Any unaccepted alternate contained within a bid shall expire 90 days after the date of the opening of bids for review.
- Determination of the lowest qualified responsible bidder shall be based on the sum of the base bid and any alternates accepted.
- E. The term "construction" as defined in WV Code 21-5A-1, shall mean any construction, reconstruction, improvement, enlargement, painting, decorating, or repair of any public improvement let to contract, but does not include temporary or emergency repairs. For a construction project in the amount of \$500,000 or greater, the employer must hire at least seventy-five percent (75%) of employees from the local labor market. The definition of "local labor market" means every county in West Virginia and any county outside of West Virginia if any portion of that county is within fifty miles of the border of West Virginia.
- F. According to the West Virginia Division of Labor, all construction contracts in excess of \$10,000 must be in writing.
- G. All changes to a construction project shall be documented by a written change order. To minimize the number of change orders issued:

1. Construction change orders shall be issued only when it is determined they are absolutely necessary; the number of change orders issued shall be restricted to the least number possible. Change orders shall not be used to alter the

original scope of the project; and the cumulative effect on the total cost of the project shall be minimal.

2. Construction change orders shall not be used to: include additional work of a significant nature that was not in the original scope of the project, expand the cost of the project significantly beyond the original contract amount, or expand the work beyond the original worksite.
3. All construction change orders must be implemented in writing.
4. The Superintendent or designated purchasing director shall review and approve all change orders that have an impact on the total cost of the project. Change orders that have an impact on the cost or scope of the project shall be submitted to the Board for approval. Procedures shall be established to ensure that approval of time-sensitive construction work is completed as soon as possible to minimize disruption of the construction process.
5. Project records shall be maintained to clearly reflect the accumulative costs resulting from change orders.

H. The Board of Education shall require all persons contracting for the building or repairing of school property, where the contract exceeds \$25,000 to execute a bond, with approved security, in the amount of the contract price.

Architectural and Engineering Services

The County shall procure architectural or engineering services on the basis of demonstrated competence and qualifications for the type of professional services required. (WV Code 5G-1-1 et seq.)

- A. For projects estimated to cost less than \$250,000, the Superintendent or designated purchasing director shall conduct discussions with three (3) or more professional firms solicited on the basis of known or submitted qualifications for the assignment prior to the awarding of any contract. If it is determined that seeking competition is not practical, the Board may, with the advice of the Superintendent, or designated purchasing director, select a firm on the basis of previous satisfactory performance, and knowledge of the agency's facilities and needs.
- B. For projects estimated to cost \$250,000 or more, the Board shall seek expressions of interest from architectural and engineering firms which shall include a statement of qualifications and performance data, and may include anticipated concepts and proposed methods or approach to the project. All jobs shall be announced by public notice published as a Class II legal advertisement in compliance with WV Code 59-1-1, et seq.
- C. A committee of three (3) to five (5) members selected by the Superintendent or designated purchasing director shall evaluate these statements and select three (3) firms, which, in the committee's opinion, are best qualified to perform the desired service, provided that, on projects funded wholly or in part by the West Virginia School Building Authority, two (2) of the three (3) firms selected must have had offices within the State for at least one (1) year prior to submitting the expression of interest.
- D. The committee shall then rank, in order of preference, no less than three (3) of the firms selected, and the Superintendent or designated purchasing director shall commence negotiations with the firms in the order of preference to determine the scope of services and price for the work to be performed.

Agreements

- A. Professional, technical, or other specialized services (including, but not limited to, legal counsel; accounting services; presenters for continuing professional development activities; technology installation, repair and maintenance; and conference meeting facilities) where the scope of the services is known but the price is not the sole factor in determining the award, shall be procured by agreement.
- B. The agreement shall be in writing and the total cost must be stated either as a "sum certain", or at a fixed rate, if the number of hours of service being acquired is not known.
- C. The agreement amount must also include the total being paid for any anticipated travel expenses incurred by the service provider. The payment of travel expenses pursuant to an agreement shall conform to all Federal and State tax requirements. Room or travel accommodations are not to be paid directly by the Board for contract service providers.
- D. No agreement shall contain contractual requirements that are in violation of State statutes, including, but not limited to, any clause that requires a prepayment, the imposition of a penalty or termination charge should the County cancel the agreement, or the requirement that the County indemnify or hold harmless the vendor.

Leases and Lease Purchase Agreements

- A. Competitive bids are encouraged but not required for leases and lease purchase agreements.
- B. No lease purchase agreement shall be secured by property that is already owned by the County.
- C. Title shall transfer from the lessor to the lessee when the option to purchase the commodity is exercised, normally at the time the last installment payment is made.
- D. No funds shall be expended or obligations incurred from future levies. (State Constitution and WV Code 11-8-26)
 - 1. A lease purchase agreement extending beyond the fiscal year shall contain a non-binding cancellation clause where the contract can be terminated at the end of each fiscal year, at the County's discretion, without creating a present indebtedness for the aggregate of the installment payments.
 - 2. Any language in a lease purchase agreement that might require the County to give notice to the lessor or be liable for future payments before terminating the agreement at the end of a fiscal year shall be void.

Purchases of Textbooks, Instructional Materials and Learning Technologies

- A. All textbooks shall be purchased in accordance with procedures prescribed in WV Code 18-2A-10 - Magazines, newspapers and other periodicals may be purchased for classroom use to supplement those items.
- B. No later than May 1st of each year, the Superintendent shall recommend to the Board the list of texts to deliver instruction.

Purchase of Fresh Produce, Meat, and Poultry Products

A minimum of five percent (5%) of the District's fresh produce, meat, and poultry products must be purchased from in-state producers provided that such products can be grown or are available from in-state producers.

Compliance With Federal Procurement Requirements

- A. Whenever procuring commodities and services with Federal grant proceeds, the County shall use the procurement procedures specified in this policy.
- B. Any requisition utilizing Federal funding which includes special requirements in addition to or different than normal purchasing requirements must be identified when the requisition is submitted to the Superintendent or designated purchasing director.
- C. Employees of the Board shall comply with all procedures for the procurement of commodities and services with funds from the U.S. Department of Education which are included in that agency's regulations entitled, United States Education Department General Administrative Regulations (EDGAR), Sections 74.41 through 74.48.
- D. Employees of the Board shall comply with all procedures for the procurement of commodities and services with funds from other Federal agencies which are found in that agency's administrative regulations.
- E. The County shall not purchase commodities or services, or enter into construction contracts from a vendor that has been debarred by the Federal government.

Submission of Sealed Bids

- A. All sealed bids are to be submitted at the vendors' expense.
- B. Bidders must submit their bids and/or proposals prior to the date and time of the bid opening in the format prescribed by the Board. Substitutions for the prescribed format are acceptable only if the substituted terms, conditions, and/or provisions have been approved in advance by the Superintendent or designated purchasing director.

- C. Bidders shall submit their bids and/or proposals to the Superintendent or designated purchasing director. The Superintendent or designated purchasing director shall reject all bids not received by the specified date and time.
- D. An authorized representative of the bidder shall sign all bids before submission. A corporate signature without an individual name is not an acceptable signature.
- E. The Board may accept the submission of bids by facsimile transmission. The completed facsimile transmission must be received by the Superintendent or designated purchasing director prior to the specified date and time for submission of the bid. A vendor choosing to submit a bid or a written change to a bid by facsimile transmission accepts full responsibility for the transmission and receipt of the bid or change. The Board accepts no responsibility for the unsuccessful and/or incomplete transmission of bids by facsimile machine. An original document and a copy of a bid that is initially sent by facsimile transmission shall be sent to the Superintendent or designated purchasing director within two (2) working days after the bid opening date and must be identical to the bid submitted by facsimile transmission.
- F. Copies of bids may be open for public inspection in the office of the Superintendent or designated purchasing director immediately after bid opening. All files related to the evaluation and awarding of the bids are open for public inspection after the award has been made.
- G. A bidder may make a written change of a sealed bid before the bid opening. A bidder shall submit written changes to the Superintendent or designated purchasing director prior to the date and time of the bid opening. A bidder may submit changes by facsimile transmission.
- H. The Board may reject an erroneous bid after the bid opening if all of the following conditions exist: (1) an error was made; (2) the error materially affected the bid; (3) rejection of the bid would not cause a hardship on the County, other than losing an opportunity to receive commodities at a reduced cost; and (4) enforcement of the part of the bid in error would be unconscionable. In order for the Board to reject a bid, documented evidence shall be maintained that all of the conditions set forth in this subdivision exist.
- I. If there is a conflict between the extension price and the unit price, or other minor errors exist that are not sufficient to cause the bid to be rejected, the unit price prevails.
- J. A bidder may make a price adjustment on any purchase order if specific provisions for price adjustments have been incorporated in the RFQ and purchase order. A bidder shall make a request for price adjustment in accordance with the specific terms and conditions of the individual purchase order. In the event no provisions for price adjustment have been made, discretion to grant a price adjustment rests with the Board.

Resident Vendor Preference

Preference for resident vendors of the State of West Virginia or preference for vendors employing State residents will not be granted in the purchase of commodities or printing. (WV Code 5A-3-37)

Approval

- A. The purchase of commodities or services costing less than \$5,000 must have the prior approval of an employee who has supervisory authority over the individual initiating the purchase request.
- B. All contracts for the purchase of commodities or services, with the exception of consumable supplies, that involve the expenditure of \$5,000 or more but less than \$25,000 must have the prior approval of the Superintendent or designated purchasing director or other designee.
- C. All contracts for the purchase of commodities or services, with the exception of consumable supplies, that involve the expenditure of \$25,000 or more but less than \$100,000 must have the prior approval of the Superintendent.
- D. All contracts for the purchase of commodities or services, with the exception of consumable supplies, that involve the expenditure of \$100,000 or more must have the prior approval of the Cabell County Board. The approval can be granted either as a consent agenda item or by a separate motion of the Board.

Awarding

- A. Commodities

1. The award for the purchase of commodities shall be made by the Board, upon the recommendation of the Superintendent or designated purchasing director, to the lowest responsible bidder with the exception of the purchase of school buses. Pursuant to WV Code 5A-3-11, the County Board shall purchase school buses from any of the bidders who have been awarded contracts by the State.
2. In recommending such award to the Board, the Superintendent or designated purchasing director shall consider such factors as quality (meeting specifications), price, time of delivery, cost of delivery, and other terms and conditions considered prudent.
3. In situations of discrepancies in bid documents, unit prices shall prevail in all cases.
4. In some cases the Superintendent or designated purchasing director may recommend and the Board may approve multiple and/or split awards when it is in the best interests of the County to do so.
5. The Board may reject any or all bids and solicit new bids.

B. Agreements

1. The award of agreements that are used for obtaining professional, technical, or other specialized services may be negotiated and need not be competitively bid, since the variety of the services can vary significantly among providers.
2. The Board shall cause to be established criteria for evaluating and negotiating such agreements. Competitive bids may be solicited, but the award need not be awarded to the lowest bidder.
3. The Board may reject any or all bids that may have been requested and solicit new bids.

C. Contracts

1. Pursuant to WV Code 5A-3-10a, no contract or renewal of any contract shall be awarded to any vendor when the vendor or a related party to the vendor is a debtor and the debt owed is an amount greater than \$1,000, as defined in the following paragraphs.
2. Debt is defined in the statute as any assessment, premium, penalty, fine, tax or other amount of money owed to the State or any of its political subdivisions because of judgment, fine, permit violation, license assessment, workers' compensation premiums, penalty, or other assessment or surcharge presently delinquent or due and required to be paid to the state or any of its political subdivision, including any interest or additional penalties accrued thereon.
3. The prohibition does not apply where a vendor has contested any tax, workers' compensation premium amount, permit fee, or environmental fee or assessment and the matter has not become final, or the vendor has entered into a payment plan and the vendor is not in default of any provisions of the payment plan.
4. Any bids, contract proposals or contracts shall include an affidavit that the vendor or related party to the vendor does not owe any debt in an amount in excess of \$1,000.

D. Accounting and Auditing Services Contracts

1. Contracts for the annual audit of the County are to be awarded in accordance with the instructions issued by the State Auditor's Office.
2. Contracts for accounting services and audits of the individual schools may be issued by the Board using the procedures specified in the preceding sub-section on agreements.
3. The Board may reject any or all bids that may have been requested and solicit new bids.

E. Construction Contracts

1. The award of every construction contract that exceeds \$25,000 in total cost shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond. (WV Code 5-22-1 et seq.)
2. The Superintendent or designated purchasing director may establish procedures for determining whether a bidder is considered a qualified responsible bidder. The determination shall be made during the evaluation process and not at the time the bids are opened.

3. The Board may reject any or all bids and solicit new bids on the project.

F. Architectural or Engineering Services

1. The Board shall procure architectural or engineering services on the basis of demonstrated competence and qualifications for the type of professional services required.
2. The Board may accept or reject, in whole or in part, any bid when it is determined to be in the best interest of the County. If any bid is rejected, the Superintendent or designated purchasing director shall place a written explanation in the purchase order file.

G. When tie bids are received, the award shall be made by allowing the tied vendors to make a "last and final offer", by flip of a coin, draw of the cards, or any other impartial method considered prudent by the Superintendent or designated purchasing director.

Requirement for Bonds and Deposits

- A. The Superintendent or designated purchasing director shall determine the applicability and amount of bonds and/or deposit required of a vendor at any time, if; it is judged that security is necessary to safeguard the County from undue risk.
- B. The types of bonds that may be required include bid bonds, performance, surety bonds, litigation bonds, or maintenance bonds.
- C. The Superintendent or designated purchasing director may require the vendor to submit a certified check, certificate of deposit, bond, or any other security acceptable to the Superintendent or designated purchasing director, payable to the County. Personal checks and/or company checks are not acceptable.
- D. The provisions for these requirements should be incorporated into the request for quotation and purchase order. When any contract is satisfactorily completed on which a surety bond or other deposit has been previously submitted, the individual originating the purchase shall certify the satisfactory completion or acceptance of the commodities or services being purchased in writing to the Superintendent or designated purchasing director.
- E. Upon receipt of the notification, the Superintendent or designated purchasing director shall return the check or deposit to the vendor.

Vendors' Rights and Duties

- A. Each vendor is solely responsible for the delivery of the bid proposal in writing to the place and location specified by the County in the bid requisition. The bid must be received by an authorized employee of the Board prior to the specified date and time specified in the bid opening.
- B. The official time clock for the purpose of receipt of bids, shall be displayed in the office of the Superintendent or designated purchasing director.
- C. Vendors are responsible for the accuracy of the information in the bid.
- D. A vendor who fails to return all required forms and materials with their bid may be suspended from the bidding list.
- E. If there is a conflict between the extension price and the unit price, the unit price prevails.
- F. Each vendor must honor any contractual term or condition included in the bid document.
- G. Each vendor must indicate a definite shipping date on all bids after receipt of the purchase order. If not indicated on the vendor's response, the Board may require delivery within ten (10) days after receipt of the order.
- H. Any changes made by the vendor in the specifications listed in the bid request shall be clearly stated by the vendor. If changes are not stated, the Board shall assume that items offered meet the specifications.
- I. If a vendor is suspended and requests a hearing, one will be scheduled with the Superintendent or his/her designee. The vendor shall be notified, in writing, of the date, time and place of the hearing.

Remedies and Suspensions

A. In the event that a vendor fails to honor any contractual term or condition, the Cabell County Board may:

1. cancel the contract and re-award the purchase order to the next lowest bidder;

The vendor failing to honor contractual obligations is responsible for all differences in cost;

2. declare a vendor non-responsible or non-responsive and refuse to award a purchase order;

All such instances shall be substantiated in writing. The documentation shall be considered a public document and shall be available for inspection at all reasonable times.

3. suspend, for a period not to exceed one (1) year, the right of a vendor to bid on purchases when there is reason to believe the vendor has violated any of the provisions, terms, or conditions of a contract, this rule, and/or State law. A suspended vendor may appeal the decision of the Superintendent or designated purchasing director to the Board.

B. Grounds for suspension include, but are not limited to the following:

1. A vendor has exhibited a pattern of poor performance in fulfilling his/her contractual obligations to the Board. Poor performance includes, but is not limited to, a vendor providing or furnishing commodities, materials, or services late, or at a quantity or quality level below that which is specified in the contract.
2. A vendor has breached any contract entered into pursuant to the provisions of WV Code 5A-3-1 et seq. or this rule.
3. A vendor has been convicted of a Federal, State, or local crime punishable as a felony, directly related to the performance of a contract entered into pursuant to this rule.

Protests

A. Submission of a Protest

1. Protests based on bid specifications must be submitted no later than five (5) working days prior to bid opening. Protest of purchase order/contract awards must be submitted no later than five (5) working days after the award. The vendor is responsible for knowing the bid opening and award dates. Protests received after these dates may be rejected at the option of the Superintendent or designated purchasing director.
2. All protests shall be submitted in writing to the Superintendent or designated purchasing director and contain the following information:
 - a. the name and address of the protestor;
 - b. the requisition, purchase order/contract numbers;
 - c. a statement of the grounds of protest;
 - d. supporting documentation (if necessary);
 - e. the resolution or relief sought.
3. Failure to submit this information shall be grounds for rejection of the protest by the Superintendent or designated purchasing director.

B. Review of Protest

1. The Superintendent or designated purchasing director or his/her designee shall review the matter of protest and issue a written decision. A hearing may be conducted at the option of the Superintendent or designated purchasing director

or assigned designee. Continuation or delay of purchase order/contract award is at the discretion of the Superintendent or designated purchasing director.

2. The Superintendent or designated purchasing director may refuse to review any protests when the matter involved is the subject of litigation before a court of competent jurisdiction; if the merits have previously been decided by a court of competent jurisdiction; or if it has been decided in a previous protest by the Superintendent or designated purchasing director. The provisions of this subsection do not apply where the court requests, expects, or otherwise expresses interest in the decision of the County.

Receipt of Delivers

A. Deliveries to a warehouse

1. When deliveries are made to a central warehouse, or directly to a school or other cost center, personnel receiving the commodities are responsible for the inspecting of goods, ensuring that purchases meet contractual requirements, signing for the commodities, and forwarding the receipting documents to the business office for payment of the invoice.
2. The Superintendent shall cause to be developed local procedures for receiving merchandise shipped from vendors to a central warehouse for subsequent delivery to a school or other cost center. These procedures shall include the steps to be followed in the following circumstances:
 - a. when the complete order is received and the warehouse personnel are able to verify that all items ordered are received;
 - b. when the complete order is received but the warehouse personnel are not able to verify that all items ordered are received, such as when the computer hardware is ordered with specified pre-loaded software;
 - c. when all items are not shipped and backorders will not be accepted;
 - d. when all items are not shipped and backorders will be accepted.

B. The Superintendent shall cause to be developed procedures for receiving merchandise shipped from vendors directly to a school or other cost center. These procedures shall include the steps to be followed in the same circumstances discussed in the preceding paragraph.

C. Any problems with quality, quantity, performance, and lack of conformity to specifications, should be reported to the Superintendent or designated purchasing director immediately. Poor quality items that do not meet specifications should not be accepted and approved for payment. This applies also to term contract items. Whenever possible, problems shall be resolved before final payment has been made. All shipping documents and packing containers shall be retained.

Online Procurement

Whenever online procurement is used, all purchasing policies must be followed, including the issuance of purchase orders prior to the time the commodities or services are ordered. The purchase order must be issued to the vendor from whom the commodities or services are being purchased, and not to the online procurement provider.

Payment for Commodities or Services

- A. The Board shall not approve payment for any claim for services rendered or materials furnished unless an itemized account of the claim is filed by the claimant. (WV Code 12-3-18)
- B. The account shall be itemized in detail, and shall show, among other things, the following:
 1. If the claim is for services, the claim shall show the kind of services, the dates when the services were performed, and the name of the person performing the services.
 2. If the claim is for materials or supplies furnished, the claim shall show in detail the kind of material or supplies, the quantity, dates of delivery, and to whom delivered.

- C. Consequently, the Board shall not make payments from a summarized statement, but must make all payments for materials furnished and services rendered from an itemized invoice.
- D. In addition, payments shall not be made in advance of the materials being furnished or the services rendered.
- E. The Board shall withhold payment in the final settlement of any contract, until the receipt of a certificate from the tax commissioner to the effect that all taxes against the contractor have been paid or provided for. A copy of the "Release of Final Settlement" form is included in Form 6320 F2. (WV Code 11-10-11(d))
- F. In addition, if the contract is subject to county or municipal business and occupation taxes, the payment must also be withheld until receipt of a release from the applicable county or municipality to the effect that all county or municipal business and occupation taxes levied or accrued against the contractor have been paid.

Credit Cards

The Board has established a credit card program as an alternative payment method for certain purchases.

Emergency Procurement

A. Declared Emergencies

Should the Governor, in an emergency, suspend laws, rules and/or regulations relating to the acquisition of commodities and services, the following procedures shall apply during the period of that suspension:

1. The employees or representatives of the County shall exercise sound judgment and discretion when acquiring commodities and services related to the emergency.
2. The employees or representatives of the County shall operate with highest ideals of honor and integrity and strive to avoid the appearance of perceived impropriety.
3. No person shall corruptly combine, collude, or conspire with one (1) or more persons to lessen competition, or cause a higher price to be paid or cause one vendor to be unjustifiably preferred over one (1) or more other prospective vendors.
4. No person shall solicit or receive anything of value, directly or indirectly, now or in the future, from any vendor or person supplying commodities or services in relation to the emergency.
5. The Superintendent or designated purchasing director shall develop specifications for commodities and services that do not favor a particular brand or vendor.
6. Any contract and/or purchase order in excess of \$100,000 shall be reviewed, approved and signed by Superintendent.
7. The acquisition of commodities and services not on contract that is estimated to cost in excess of \$1,000 but less than \$5,000 shall at all times be based on three (3) competitive bids. Bids may be verbal but shall be summarized and documented and include the date of contact, vendor, dollar amount, commodity or service description, quantity, number of bids obtained and whether the award was made to the low bidder.
8. The acquisition of commodities and services not on contract that is estimated to cost in excess of \$5,000 shall be based on three (3) written bids which shall be documented and include the date of contact, vendor, dollar amount, commodity or service description, quantity, number of bids obtained and whether the award was made to the low bidder.
9. If, in the opinion of the Cabell County Board, using sound judgment and discretion, time does not permit written bids to be received, verbal bids shall be obtained and documented, with written bids received within five (5) working days of the request.
10. If, in the opinion of the Cabell County Board, using sound judgment and discretion, time does not permit verbal bids to be received, the Board must secure written approval from the State Superintendent of Schools to secure necessary services and supplies without bids for only that period of time absolutely necessary to abate the emergency.
11. All purchase order and/or contract awards shall be made to the lowest, responsible bidder meeting specifications.

12. Should the award not be made to the lowest priced bidder, a written justification shall be placed on file with the bids that documents the reason the low price was rejected. This justification must be signed by the Superintendent.
13. The Board shall document each expenditure and include specifications, bids, no-bids, award justifications and any other relevant data.
14. The documentation for each expenditure shall be complete and shall be kept in an orderly manner that will enable any interested party to understand the specifics of the expenditure.
15. A complete written record of all expenditures relating to the emergency shall be submitted to the Governor within thirty (30) days of the expiration of the declaration of the emergency.
16. The written record shall include a summary sheet that details all acquisitions for the emergency and list date of purchase, vendor, dollar amount, commodity or service description, quantity, number of bids obtained and whether the award was made to the low bidder.
17. The Governor reserves the right to remove the spending authority at any time during the emergency and appoint a person or organization to manage the emergency expenditures and/or transfer that authority to another organization.
18. All emergency expenditures are subject to complete review and/or thorough audit as requested by the Governor.

B. Local Emergencies

1. The Superintendent shall establish with Board approval the procedures to be followed in the case of an emergency at the local level that has not been declared an emergency by the Governor.
2. The Superintendent or designated purchasing director or appointed designee shall issue prior written approval for purchases in emergency situations. These situations can arise from acts of nature, conditions that are detrimental to the health, safety, or welfare of employees or students, or other unforeseen events that threaten the termination of essential services. These can include unforeseen delays by contractors or delays in the transportation of indispensable goods and materials. Emergency purchases shall not be used for hardships created by neglect, poor planning, or lack of organization.
3. Competitive bids must be obtained whenever possible. If, in the opinion of the Cabell County Board, using sound judgment and discretion, time does not permit verbal bids to be received, written approval from the Superintendent to secure necessary services and supplies without bids for only that period of time absolutely necessary to abate the emergency.

Purchases by Schools

- A. All purchases by the schools are to be made in accordance with the procedures specified in West Virginia State Board of Education policy 1224.1 and the incorporated manual entitled Accounting Procedures Manual for the Public Schools in the State of West Virginia and purchasing procedures set forth in this policy.
- B. All contracts shall be approved and signed by the County Superintendent. Except for the funds discussed in the succeeding paragraph, individual schools have the authority to expend only the "quasi-public" funds received by the school from curricular or noncurricular activities.
- C. The Board shall not distribute public funds to individual schools for expenditure. Funds may be allocated to each school, but the actual procurement transactions shall be handled through the County's central business office. Exceptions to this general rule are:
 1. the distribution of funds appropriated for faculty senates through the Public School Support Program (PSSP) and supplemental allocations by the County Board to provide the basic allocation for teachers not funded through the PSSP;
 2. the occasional or infrequent reimbursement of an expense unintentionally paid by a school;
 3. the disbursement of funds to a school for the repetitive purchase of a specific item, such as postage, where it is impractical to handle the transaction in any other manner. Supplemental allocations by the County to the appropriated amount provided to each teacher through the PSSP shall not be distributed to the schools for expenditure. The latter two (2) exceptions are for small dollar amounts and shall not to be extended to the routine distribution of funds to all

schools in the County on a formula or predetermined basis for the schools to determine how the funds are expended.

- D. All State or Federal grant funds received directly by an individual school are to be remitted immediately to the Board office. The funds are to be allotted to the school for expenditure for the purposes identified in the grant award, but the procurement transactions are to be handled through the County's central business office.
- E. Schools making purchases using "quasi-public" funds or student activity funds shall explore whether the goods and services are available from a contract negotiated by the County or a cooperative contract with a RESA or other counties before going to the open market.

Safeguarding and Controlling of Assets

- A. An adequate inventory control system of all capital assets, equipment and disposal supplies and commodities purchased shall be maintained to safeguard the assets on hand and to ensure that those that are placed into service or consumed have been used for an authorized purpose. This system shall include maintenance of inventory records.
- B. The inventory of capital assets shall be maintained on the West Virginia Education Information System, as specified in the procedures manual issued by the Office of School Finance entitled Fixed Asset Inventory System for the County Boards in the State of West Virginia.
- C. Inventory of Supplies and Other Expendable Property

A perpetual inventory system is to be maintained of all supply items that have a material dollar value, such as the supply inventory in a central warehouse or the vehicle replacement parts at the maintenance garage. The supply inventory shall include for each item or group of items the following information: name of item, quantity purchased, date of purchase, cost, reorder point, amount dispensed, and date dispensed.

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