

**CHAPTER VII
PROCUREMENT AND CONTRACT RULES**

Sec. 7-1. Purchasing Limitations. No purchases, including purchases made using school internal accounts, shall be made except as provided in these Rules. No officer or employee not expressly authorized by these Rules shall make any purchase on behalf of the Board of Education or enter into any contract of purchase, verbal or written, for any apparatus, equipment, supplies, service, repairs, goods, wares or merchandise of any kind or description, or accept any of them on approval or otherwise. No officer or employee of the Board of Education shall during a fiscal year expend or contract to be expended any money, or incur any liability, or enter into any contract without an appropriation therefore, or in excess of: i) the amount appropriated in the budget; ii) the amount authorized in a Board Report; iii) the amount authorized by an Officer pursuant to the exercise of their delegated authority; or, iv) the compensation amount stated in the contract. Any contract, verbal or written, made in violation of this section is void as to the Board of Education.

Sec. 7-2. Procurement Policy; Requests for Information, Request for Proposals and/or Qualifications, and Bid Solicitations

a. Requests for information and public canvassing of solicitations of bids, requests for proposals and qualifications for contracts and purchases shall be authorized and managed by the Chief Purchasing Officer. All bid solicitations, which convert to binding contracts upon execution by the Board, shall be approved as to legal form by the General Counsel prior to the publication of such solicitation. All requests for qualification shall include language describing the basis and process for award of work to pre-qualified vendors. The Chief Purchasing Officer shall establish requirements regarding the publication of any and all requests for information, solicitations of bids, and requests for proposals and qualifications.

b. All purchases for Biddable Items and Non-biddable Items shall be awarded pursuant to a competitive process in accordance with the following procedures. Biddable Items are defined as those goods, services and transportation purchases and contracts required to be awarded through a competitively bid solicitation process pursuant to 105 ILCS 5/10-20.21. Non-biddable Items are defined as those purchases and contracts for which there is an exception under 105 ILCS 5/10-20.21.

1. Level One: All Non-biddable Items between \$25,001 and \$75,000 shall be awarded pursuant to a process whereby at least three price quotations (written or verbal) are submitted to and evaluated by the Chief Purchasing Officer and awarded to the most responsible and responsive proposer with competitive pricing or any other form of competitive solicitation that is issued in accordance with Federal, State

or other agency purchasing guidelines, as deemed appropriate by the Chief Purchasing Officer;

2. Level Two: All Non-biddable Items between \$75,001 and \$250,000 shall be awarded pursuant to a process whereby at least three (3) written proposals with price quotes are submitted to and evaluated by the Chief Purchasing Officer and are awarded to the most responsible and responsive proposer with competitive pricing, or any other form of competitive solicitation that is issued in accordance with Federal, State or other agency purchasing guidelines, as deemed appropriate by the Chief Purchasing Officer and shall be approved by the Board; and
3. Level Three: All Biddable Items in excess of \$10,000 shall be awarded pursuant to a duly advertised bid solicitation issued by the Chief Purchasing Officer, in accordance with the precepts of formal sealed bids to the lowest, responsive, responsible bidder, considering conformity with specifications and terms of delivery, quality and serviceability and shall be approved by the Board. All Non-biddable Items \$250,001 and above shall be awarded pursuant to a duly advertised request for proposals/qualifications issued by the Chief Purchasing Officer or any other form of competitive solicitation that is issued in accordance with Federal, State or other agency purchasing guidelines, as deemed appropriate by the Chief Purchasing Officer, and shall be approved by the Board.

Sec. 7-2.1 Expenditures For Items Which Are Not Required To Be Awarded Through a Competitive Bid Solicitation Process. Upon requisition duly signed or authorized by the Chief Executive Officer, the Chief Education Officer, the Chief Purchasing Officer, the Chief Financial Officer, Chief Administrative Officer, the General Counsel, or any other executive officer designated by Board Resolution, as appropriate for their respective areas of responsibilities, expenditures for supplies, materials, non-personal services, personal and consulting services or other work which are not required to be awarded through the competitive bid solicitation process pursuant to Board Rule 7-2, up to \$25,000 may be made by purchase order charging appropriated funds. Board approval shall be first obtained for all such commitments in excess of \$25,000.

Sec. 7-3. Procedure for Bid Solicitations. Except as may otherwise be provided by the Board, when solicitations for Biddable Items are taken, as many bids shall be secured as practicable, basing the solicitation upon a list of prospective bidders that are qualified to provide supplies, materials, work or services. At least one public notice is to be made at least ten days before the bid due date in a newspaper published in the district and shall simultaneously be posted on a readily accessible bulletin board in the Office of the Chief Purchasing Officer. Each bidder receiving a copy of the solicitation must receive at least three days notice of the time and place of the opening of all such bids.

All bids must be sealed by the bidder and must be opened by the Chief Purchasing Officer or his/her designee at a public bid opening at which the contents of the bids must be announced.

If the stated bid opening day falls upon a holiday as established by the Rules of the Board, the time for receipt and opening of bids shall automatically be continued to the next following business day at the same hour.

Sec. 7-4. Schedule of Bid Solicitations. Whenever the bids are scheduled, a copy of said schedule shall be posted in the Office of the Chief Purchasing Officer not later than four days following the day on which bids are opened. A schedule of bids, certified by the Chief Purchasing Officer, shall also be forwarded to the Secretary of the Board of Education who shall file the same in a safe place and properly preserve them as part of the official records of the Board of Education.

Sec. 7-5. Emergency Expenditures.

a. An emergency shall be determined when, in the judgment of the Chief Purchasing Officer: (a) it is necessary make repairs and alterations, and purchase equipment, services, or supplies (collectively “Emergency Purchases”); (b) the Emergency Purchases are necessary as a result of circumstances which call for immediate action (the “Conditions Precedent”); and (c) the Conditions Precedent are a result of fire, accident, threat to the health, safety, security of individuals or other conditions and such action is necessary to prevent material loss or damage to property, or bodily injury or loss of life of the occupants of the Board’s buildings and third parties who may be present in its buildings or on its premises or to prevent interference with school sessions or to protect the health, safety, security or well being of students, staff, or third parties (“Emergency Condition(s)”).

b. In order to obtain approval of an Emergency Expenditure, the following steps must be taken: (a) obtain the verbal or written approval of the Chief Executive Officer, Chief Education Officer, Chief Administrative Officer, Chief Facilities Officer, or such other chief officer charged with authority over the Conditions Precedent ; (b) obtain the verbal or written approval of the Chief Purchasing Officer; (c) after the work has been completed, the purchases have been made, or the services have been rendered to the satisfaction of the appropriate Department, complete a Request to Approve Emergency Expenditure on a form approved by the Chief Purchasing Officer (the “Emergency Request Form”); (d) obtain the verification of the appropriate chief officer on the Emergency Request Form; and (e) have the Emergency Request Form signed by the Chief Purchasing Officer.

c. If an Emergency Condition occurs after business hours, on a weekend, on a holiday, or at any other time that the appropriate chief officer and the Chief Purchasing Officer cannot be contacted, each Portfolio Manager or such

other appropriate chief officer of the Board, or their designee, has the authority to take the necessary action at his/her own discretion.

d. The foregoing authority is limited to the minimum expenditure of funds necessary to stabilize an Emergency Condition and protect person and property from further harm. After the Emergency Request Form has been completed, the Chief Purchasing Officer shall prepare a Board Report and obtain approval of the Emergency Expenditure by a $\frac{3}{4}$ vote of the Board.

Sec. 7-6. Deposits, Bid Bonds, Performance and Payment Bonds.

a. When a bid deposit shall be required, whether by law or at the discretion of the Chief Purchasing Officer, it shall be so stated in the solicitation of bids, and the deposit shall be in a reasonable amount but not in excess of 5% of the total bid amount proposed. The bid deposit, when required, may be in the form of a money order, certified check drawn upon a banking institution in good standing and made payable to the order of the Board, a specific bond, or a letter of credit. In lieu of submitting the bid deposit as herein above provided, a bidder may file with the Board an annual bid bond, the amount of which shall be determined by the Chief Purchasing Officer; provided, however, an annual bid bond shall not be accepted on bids for construction work, alterations, repairs to buildings and grounds, and student transportation matters. Such annual bid bond shall in no case be less than \$10,000, and shall cover all bids submitted by such bidder during the period of the bond. All bid bonds shall be signed by a responsible surety company licensed to do business in the State of Illinois.

b. All bid deposits accompanying a bid solicitation, except that of the successful bidder, shall be refunded or returned after the successful bidder has been determined and a contract has been awarded by the Board. The bid deposit of the successful bidder shall be returned after the full execution of the contract and the tendering of any payment and/or performance bond required under the contract. In case of a failure or refusal on the part of the selected bidder to execute a contract and tender a payment and/or performance bond, if required, within a reasonable period of time as determined by the Chief Purchasing Officer, the deposit of the selected bidder so failing or refusing may be forfeited and retained by the Board as liquidated damages and not as a penalty or, when a bid bond has been furnished in lieu of a deposit, the Board may take action on the bond.

c. A payment and performance bond shall be required for all building construction and building and grounds repair work, and student transportation matters. A payment and performance bond may also be required on any other purchases or contracts when specified by the Chief Purchasing Officer. When a payment and performance bond is required, it shall be stated in the solicitation of bids and requests for proposals and/or qualifications and the bonds required shall be in an amount sufficient to insure

the fulfillment of the contract of the successful bidder/proposer. Such bonds shall be signed by a responsible surety company licensed to do business in the State of Illinois.

Sec. 7-7. Rejection of Bids/Proposals. The Board or the Chief Purchasing Officer shall have the right to reject any or all bids or proposals.

Sec. 7-8. Expenditures - Pre-Qualified Vendors. The Chief Purchasing Officer shall submit a report to the Board each quarter of all expenditures made to pre-qualified vendors. The report shall include a list of: i) all expenditures made to each individual pre-qualified vendor; ii) the total expenditures made to all pre-qualified vendors in the applicable pool; and, iii) the balance remaining of the aggregate amount authorized for each applicable pre-qualified pool of vendors.

Sec. 7-9. Strategic Sourcing. The Chief Purchasing Officer or his/her designee shall prepare and circulate to local schools a list of pre-qualified vendors ('strategic sourcing vendors') offering volume discounts of commodities such as instructional materials, equipment, supplies, and various services. Schools shall be required to use strategic sourcing vendors for all purchases over \$10,000 in accordance with the Board's Strategic Sourcing Policy. Schools requesting to use a vendor other than a strategic sourcing vendor for purchases over \$10,000 must obtain prior written approval from the Chief Purchasing Officer and comply with applicable competitive basis procedures. All such purchases of commodities and services that are subject to the Board's Strategic Sourcing Policy shall be made only pursuant to a purchase order approved by the Chief Purchasing Officer.

Sec. 7-10. Sole Sourcing.

a. Sole Sourcing of Non-Biddable Items. Sole source procurements and contracts are defined as those that have not been competitively procured. Sole source procurements are discouraged and any office, department, program, unit, or school requesting sole sourcing should carefully consider all available resources before requesting a sole source award. Sole source procurements are improper if only for administrative convenience. All sole source procurements must first be approved by the Chief Purchasing Officer and then approved by the Board. In determining whether to approve a sole source procurement, the following criteria shall be considered:

1. The specific problem, requirement, or need that the procurement or contract is intended to address that makes sole sourcing necessary. This should include an explanation as to how the services or goods and merchandise are critical or essential to the Board's responsibilities or operations.

2. The availability of resources to perform the services or provide the goods and merchandise efficiently and cost effectively.
 3. The unique qualifications, abilities or expertise of the contractor or supplier to meet the Board's needs and/or the unique nature of the services and/or goods and merchandise.
 4. Whether the particular contractor or supplier was named in a grant or whose use is mandated by a giftor or donor.
 5. Any other special circumstances that may be relevant such as copyright restrictions, or where the proposed contractor or supplier is the only source available in the geographical area.
 6. The basis for the determination that the costs, fees, or rates negotiated are fair and reasonable given the absence of a competitive basis award. The explanation may make a comparison with comparable contracts, use the results of a market survey, or employ some other appropriate means to make such a determination.
- b. Sole sourcing of Biddable Items is permitted only pursuant to an exception in 105 ILCS 5/10.20.21 of the Illinois School Code.

Sec. 7-11. Contract Ineligibility. No person or business entity shall be awarded a contract if that person or business entity (i) has been convicted of bribery or attempting to bribe a public officer or employee of the Board of Education of the City of Chicago, the State of Illinois, or any other public entity, in that officer or employee's official capacity; (ii) has been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise; or (iii) has made an admission of guilt of such conduct described above which is a matter of record but has not been prosecuted for such conduct. Ineligibility under this section shall continue for three years following such conviction or admission.

For purposes of this Section 7-11, no person or business entity shall be eligible to be awarded a contract if such person has engaged in: (a) Bid Stringing (as defined in 720 ILCS 5/33 E-2 (i-5), which also includes any knowing attempt to divide or plan procurements to avoid the use of competitive procedures; (b) Bid Rigging (as defined in 720 ILCS 5/33 E-3; or (c) Bid Rotating (as defined in 720 ILCS 5/33 E-4). For purposes of this section, where an official, agent or employee of a business entity has committed such conduct described above on behalf of such an entity and pursuant to the direction or authorization of a responsible official thereof, the business entity shall be chargeable with the conduct. Bid Stringing, Bid Rigging and Bid Rotating are prohibited.

Sec. 7-12. Prohibition Against Stringing. "Stringing" is dividing or planning any procurement program, activity, transaction, invoice, purchase order or agreement involving the Board or any of its operational elements (including

offices, departments, bureaus, programs, units and schools) to avoid either: (a) any of the competitive procurement processes set forth in Board Rule 7-2; or (b) any of the limitations on delegated authority set forth in Board Rule 7-15 or 105 ILCS 5/34-8.1. Stringing is prohibited.

Sec. 7-13. Written Contracts Required. Except as otherwise provided in these Rules, all expenditures for Biddable Items exceeding \$10,000 which must be awarded through the competitive bid solicitation process pursuant to Board Rule 7-2, and expenditures for Non-biddable Items exceeding \$25,000 which are not required to be awarded through the competitive solicitation process pursuant to Board Rule 7-2, either individually or collectively for consecutive purchases from the same vendor/service provider of the same item or service by the same user department/school, and all other transactional matters requiring contracts, leases, licenses or intergovernmental agreements shall be evidenced by a written document approved as to legal form by the General Counsel and signed by the Board, or other officers as specified in Section 7-14 or 7-15 of these Rules, as applicable, and the other party.

No goods or materials, apparatus, equipment, supplies, wares or merchandise may be received, nor may services, repairs, or work commence nor leaseholds be created, nor may payments be made regarding any of the foregoing prior to execution of a written document for same in accordance with Board Rule 7-14 or 7-15, as applicable

Sec. 7-14. President and Secretary to Execute Contracts and Leases. Except as otherwise provided in these Rules, the President and Secretary of the Board of Education shall sign and execute all contracts duly authorized by order, resolution, or direction of the Board of Education and shall sign and execute leases of school property or property required for school purposes duly authorized by order, resolution, or direction of the Board of Education, and which have been approved as to legal form by the General Counsel. The President, with the approval of the Board, may designate one or more persons who shall have proxy authority to affix the signature of the President to such contracts or leases. In the absence of the Secretary, the Assistant Secretary shall sign such contracts or leases. The Board may, at its discretion, authorize and designate a signatory for leases and contracts under certain specified dollar amounts and for ancillary documents that serve to administer or effectuate a contract or lease. In the event the President abstains from a contract or lease matter, the Board-approved contract or lease may be executed by the Vice President. In the case of abstention by the President and the absence, disability or abstention of the Vice President, the Board-approved contract or lease may be executed by any member of the Board. When so signed, executed, and approved, such contracts and leases shall be deemed to be duly executed by the Board of Education.

Sec. 7-15. Delegation of Authority to Act. The Board hereby delegates the following specific authority to the following Officers or their respective designees with respect to making and executing certain agreements, which authority may be exercised without prior Board action or approval. This authority includes the authority to approve payments and ratify agreements within the scope of the authority delegated in this section. All authority exercised by the Officers pursuant to this Rule shall be reported to the Board on a monthly basis.

- a. The Chief Executive Officer has the authority to authorize and execute any and all intergovernmental agreements and other miscellaneous types of agreements that have no financial impact on the Board, subject to approval as to legal form by the General Counsel.
- b. The Chief Operating Officer has the authority to authorize and execute the following:
 1. Any and all real property leases/licenses where the Board is the landlord/licensor, with a term less than ten (10) years, regardless of the dollar amount, subject to approval as to legal form by the General Counsel (except for leases/licenses at 125 S. Clark Street, Chicago, Illinois and for leases/licenses with Charter Schools, which require prior Board approval), provided however that the Chief Operating Officer may authorize and execute such leases/licenses with no further approval from the General Counsel when using the form agreement established by the Law Department with no modifications thereto other than to include business terms. Further, the Chief Operating Officer has the authority to authorize and execute all real property leases/licenses where the Board is the tenant/licensee, the term is less than ten (10) years, and the dollar amount for the term of the lease/license is \$75,000 or under, subject to approval as to legal form by the General Counsel.
 2. All Change Orders related to construction. "Change Order" means a change in a contract term other than as specifically provided for in the contract which authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion. The Chief Operating Officer shall establish construction change order procedures for the submission and approval of Change Orders. The Chief Operating Officer shall report all Change Orders to the Board on a monthly basis. The monthly report shall include a brief description of the change, the original contract amount, the net change by previous Change Orders in dollar amount and by percentage, the total contract amount prior to the current Change Order being submitted; the net increase/decrease in contract amount with the current Change Order in dollar amount and by percentage, and the revised contract amount. All Change Orders must be in compliance with the Public Works Contract Change Order Act (50 ILCS 525).

3. Agreements or documents for the sale, disposition, transfer, donation or auctioning of Board assets, subject to approval as to legal form by the General Counsel, and provided that the compensation to be paid to a third party for these services shall be payable or deductible from the proceeds. The Chief Operating Officer shall also have the authority to approve the transfer of school assets to other schools (including charter schools). Board assets mean those goods which are tangible, non-real estate properties. The sale, disposition, transfer, donation and auctioning of Board assets with an original purchase price or fair market value of \$5,000 or more that were purchased with funds from the State Board of Education shall be subject to the approval of Corporate Accounting. The Chief Operating Officer shall report to the Board on an annual basis all assets sold, transferred, donated, or otherwise disposed under the delegation of authority herein.

Effective October 22, 2008, all references to the Chief Operating Officer in any Board Rule, Policy or contract shall also constitute a reference to the Chief Administrative Officer.

- c. The Chief Education Officer has the authority to authorize and execute any and all educational and/or programmatic agreements, including payment of tuition, that have a financial impact on the Board up to \$75,000, subject to approval as to legal form by the General Counsel.
- d. The Chief Financial Officer has the authority to: i) accept any and all grants, donations and gifts of any dollar amount; ii) make grants, donations and gifts under \$75,000; and iii) refund any unspent dollars from grants, donations or gifts. The Chief Financial Officer has the authority to execute any and all grant, donation or gift acceptance agreements and amendments related thereto required by any such grantor, donor or giftor, including agreements to indemnify the grantor, donor or giftor, provided however that any grant, donation or gift acceptance agreements and amendments related thereto with a value of \$250,000 or more shall be subject to approval as to legal form by the General Counsel. The Chief Financial Officer together with the head of the department receiving the grant have the authority to provide such additional information, assurances and certifications as are necessary in connection with such grant. For all grants, gifts and donations and refunds of same, the Chief Financial Officer shall report to the Board on a monthly basis all grants, gifts and donations received or made in excess of \$50,000, and all refunds of unspent grants, gifts or donations in excess of \$5,000.
- e. The Chief Purchasing Officer has the authority to approve payments up to \$75,000 and to authorize and execute any and all of the following purchasing documents, subject to approval as to legal form by the General Counsel, when such purchases are made in accordance with the Board

Rules set forth in Chapter VII, provided however that the Chief Purchasing Officer may authorize and execute such purchasing documents with no further approval from the General Counsel when using the form agreement established by the Law Department with no modifications thereto other than to include business terms:

1. Agreements for Non-biddable Items (as defined in Section 7-13) that do not exceed \$75,000;
 2. Options to renew and/or mutually-agreed-to extensions of agreements for Non-biddable Items that do not exceed \$75,000; and
 3. Amendments to Contracts for Non-biddable Items initially costing \$75,000 and under, which amendments have no financial implications or do not increase the total obligation to more than \$75,000.
- f. The General Counsel has the authority to authorize and execute any and all agreements and documents regarding the following:
1. access and right of entry to property which may include indemnification;
 2. indemnification related to agreements for the purchase, sale, use, occupancy, license or lease of real estate;
 3. zoning, taxes and other governmental petitions and requests;
 4. indemnification related to shrink-wrap and click-wrap agreements;
 5. agreements with a nominal value of less than \$5,000 granting non-exclusive rights to use Board intellectual property and other agreements related to the grant of intellectual rights and permissions, including any indemnification of third parties associated with said agreements; and,
 6. other legal matters having no direct financial impact on the Board.
- g. The Chief Performance Officer has the authority to execute data sharing agreements with no financial obligation on the part of the Board subject to approval as to legal form by the General Counsel.
- h. The Communications Officer has the authority to execute access agreements to film in Board facilities and CPS schools subject to approval as to legal form by the General Counsel.
- i. The Chief Information Officer has the authority to execute agreements with no financial implications regarding non-disclosure, confidentiality and network access with no further approval from the General Counsel when using the form agreement established by the Law Department with no modifications thereto other than to include contact information and business terms.