

Operational Services

Administrative Procedure - Purchases

The Cooperative Attorney should be consulted, as needed, regarding the legal requirements presented by this administrative procedure as well as before a contract is presented to the Operational Board.

Requirements for Purchases and Contracts

- A. Each of the following requirements describes the type of purchase and/or contract to which it applies; requirements in Sections B and C may also apply to a specific purchase or contract.
1. All purchases of goods or services must be made through the use of contracts or purchase orders, except for those purchases made from petty cash funds, or as otherwise specifically authorized by the Executive Director.
 2. Ill. Use Tax Act compliance (105 ILCS 5/10-20.21(b) and 35 ILCS 105):
 - a. Persons bidding for and awarded a contract, and all affiliates of the person, must collect and remit Ill. Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provision of the Ill. Use Tax Act.
 - b. All bids and contracts must include: (1) a certification that the bidder or contractor is not barred from bidding for or entering into a contract, and (2) an acknowledgment that the Operational Board may declare the contract void if the certification is false.
 3. All entities seeking to enter into a contract with the Cooperative must provide written certification to the Cooperative that it will provide a drug free workplace by complying with the Ill. Drug Free Workplace Act, 30 ILCS 580. All contractors must comply with the notification mandates and other requirements in the Ill. Drug Free Workplace Act. "Contractor" is defined in the Ill. Drug Free Workplace Act as "a corporation, partnership, or other entity with 25 or more employees at the time of letting the contract, or a department, division, or unit thereof, directly responsible for the specific performance under a contract of \$5,000 or more."
 4. Before soliciting bids or awarding a contract for supplies, materials, equipment, or services, a certified education purchasing contract that is already available through a State education purchasing entity (as defined in the Education Purchasing Program, 105 ILCS 5/28A), may be considered as a bid. 105 ILCS 5/10-20.21(d).
 5. All contracts must include provisions required by State or federal law, as applicable. Topics commonly requiring a provision include equal opportunity employment, prevailing wage, minimum wage, and performance bond.
 6. The procurement of architectural, engineering, and land surveying services is governed by the Local Government Professional Services Selection Act, 50 ILCS 510/, implemented by 2:170-AP, *Qualification Based Selection*.
 7. A list must be posted on the Cooperative's website, if any, of all contracts in excess of \$25,000 and any contract with an exclusive bargaining representative. 105 ILCS 5/10-20.44(b).
 8. Each contractor with the Cooperative must comply with 105 ILCS 5/10-21.9(f) and to: (a) not allow any of its employees to have direct, daily contact with one or more students if the employee was found guilty of any offense listed in 105 ILCS 5/10-21.9(c) or 5/21B-80(c); (b) prohibit any of its employees from having direct, daily contact with one or more students if the employee was found guilty of any offense in 5/21B-80(b) (certain drug offences) until seven years following the end of the employee's sentence for the criminal offence; (c) require each of its employees who will have direct, daily contact with one or more student(s) to cooperate during the Cooperative's fingerprint-based criminal history records check on him or her; and (d) reimburse the Cooperative for the cost of the fingerprint-based criminal history records check that the Cooperative obtains

- on each employee of a contractor who will have direct, daily contact with a student(s). See 4:60-AP3, *Criminal History Records Check of Contractor Employees*.
9. For each position involving *direct contact with children or students*, each contractor must perform sexual misconduct related employment history reviews (EHRs) of its employees as required by 105 ILCS 5/22-94, added by P.A. 102-702, eff. 7-1-23, and: (a) prohibit any of its employees from having *direct contact with children or students* if the contractor has not performed an EHR; (b) discipline, up to and including termination or denial of employment, any employee who provides false information or willfully fails to disclose information required by an EHR, and prohibit any such employee from having direct contact with children or students; (c) immediately inform the District of any instances of sexual misconduct involving an employee as provided in 105 ILCS 5/22-94(j)(3); (d) prohibit any of its employees from having *direct contact with children or students* if the District objects to the employee's assignment after being informed of an instance of sexual misconduct; (e) maintain all records of EHRs and provide copies of such records upon the District's request; and (f) not enter into any agreements prohibited by 105 ILCS 5/22-94(g). See 4:60-AP4, *Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees*.
 10. Each contractor with the Cooperative must comply with 105 ILCS 5/24-5 and (a) concerning each new employee who will provide services to students or in schools provide the Cooperative with evidence of physical fitness to perform the duties assigned and freedom from communicable disease; and (b) require any new or existing employee who provides services to students or in schools to complete additional health examinations as required by the Cooperative and be subject to additional health examinations, including tuberculosis screening, as required by the Ill. Dept. of Public Health rules or order of a local health official.
 11. Any contract to purchase food with a bidder or offeror must comply with 105 ILCS 5/10-20.21(b-10) (food donations).
 12. Any pavement engineering project using a coal tar-based sealant product or high polycyclic aromatic hydrocarbon sealant product for pavement engineering-related use must comply with the Coal Tar Sealant Disclosure Act by (a) requesting a bid with an alternative for asphalt-based or latex-based sealant product, and (b) considering whether an asphalt-based or latex-based sealant product should be used for the project based upon costs and life cycle costs that regard preserving pavements, product warranties, and the benefits to public health and safety.
- B. To the extent feasible, the following govern all purchases and/or the award of contracts for supplies, materials, or work, and/or contracts with private carriers for transporting students, involving: (a) an expenditure of \$25,000 or less, or (b) in an emergency, an expenditure in excess of \$25,000, provided such expenditure is approved by three-quarters of the Operational Board. See 105 ILCS 5/10-20.21(a)(xiv) (3/4s of the members of the Board must approve an emergency expenditure in excess of \$25,000 when the bidding process is not used) and 5/29-6.1 (time limitations for transportation contracts).
1. Telephone quotations, verbal quotations, or catalog prices are used to purchase materials that are needed urgently, or small quantity orders.
 2. Written quotations are used to purchase materials or services when time requirements allow. Whenever possible, quotations should be received from at least two competitors. The Executive Director or designee may negotiate with vendors at any time, including after receiving quotations.
- C. The following govern all purchases and/or the award of contracts involving an expenditure in excess of \$25,000 for supplies and materials or work. 105 ILCS 5/10-20.21(a).

1. Contracts are awarded to the lowest responsible bidder, considering conformity with specifications, terms of delivery, quality and serviceability, except contracts or purchases for:
 - a. Services of individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important part;
 - b. Printing of finance committee reports and departmental reports;
 - c. Printing or engraving of bonds, tax warrants, and other evidences of indebtedness;
 - d. Perishable foods and perishable beverages;
 - e. Materials and work that have been awarded to the lowest responsible bidder after due advertisement, but due to unforeseen revisions, not the fault of the contractor for materials and work, must be revised causing expenditures not in excess of 10% of the contract price;
 - f. Maintenance or servicing of, or provision of repair parts for, equipment which are made with the manufacturer or authorized service agent of that equipment where the provision of parts, maintenance, or servicing can best be performed by the manufacturer or authorized service agent;
 - g. Use, purchase, delivery, movement, or installation of data processing equipment, software, or services and telecommunications and interconnect equipment, software, and services;
 - h. Duplicating machines and supplies;
 - i. Fuel, including diesel, gasoline, oil, aviation, natural gas, or propane, lubricants, or other petroleum products;
 - j. Equipment previously owned by some entity other than the Cooperative itself;
 - k. Repair, maintenance, remodeling, renovation, or construction, or a single project involving an expenditure not to exceed \$50,000 and not involving a change or increase in the size, type, or extent of an existing facility;
 - l. Goods or services procured from another governmental agency;
 - m. Goods or services that are economically procurable from only one source, such as for the purchase of magazines, books, periodicals, pamphlets and reports, and for utility services such as water, light, heat, telephone, or telegraph;
 - n. Emergency expenditures when such an emergency expenditure is approved by three-quarters of the members of the Operational Board;
 - o. Goods procured through an education master contract, as defined in the Education Purchasing Program, 105 ILCS 5/28A; and
 - p. Providing for the transportation of students, which contracts must be advertised in the same manner as competitive bids and awarded by first considering the bidder(s) most able to provide safety and comfort for the students, stability of service, and any other factors set forth in the request for proposal regarding quality of service, and then price.
 - q. Goods, services, or management in the operation of a school's food service, including a school that participates in any of the U.S. Dept. of Agriculture's (USDA) child nutrition programs if a good faith effort is made on behalf of the Cooperative to give preference to contracts that: (a) procure food that promotes the health and well-being of students, in compliance with USDA nutrition standards for school meals, and contracts should also promote the production of scratch-made, minimally processed foods; (b) give a preference to State or regional suppliers that source local food products; (c) utilize producers that adopt hormone and pest management practices recommended by the USDA; (d) give a preference to food suppliers that value animal welfare; and (e) increase opportunities for businesses owned and operated by minorities, women, or persons with disabilities.

- When this exemption applies, the bidder shall submit to the Cooperative at the time of the bid, to the best of the bidder's ability, and annually thereafter during the term of the contract, the food supplier data required in this Section q. The food supplier data shall also include the name and address of each supplier, distributor, processor, and producer involved in the provision of the products that the bidder is to supply.
2. Competitive bidding process:
 - a. An invitation for bids is advertised, where possible, by public notice at least 10 days before the bid date in a newspaper published in the Cooperative, or if no newspaper is published in the Cooperative, in a newspaper of general circulation in the area of the Cooperative. 105 ILCS 5/10-20.21(a).
 - b. The following information should be included in the advertisement for bids:
 - 1) A description of the materials, supplies, or work involved;
 - 2) Completion or delivery date requirements;
 - 3) Requirements for bids, bonds, and/or deposits;
 - 4) Requirements for performance, labor, and material payment bonds;
 - 5) Date, time, and place of the bid opening;
 - 6) The approximate time period between the opening of bids and the award of the contract; and
 - 7) Any other useful information.
 - c. If specifications are available, the advertisement for bids describes where they may be obtained and/or inspected.
 - d. All bids must be sealed by the bidder. 105 ILCS 5/10-20.21(a).
 - e. An Operational Board member or Cooperative employee opens the bids at a public bid opening at which time the contents are announced. 105 ILCS 5/10-20.21(a). Bids may be communicated, accepted, and opened electronically. The following safeguards apply to an electronic bid opening (105 ILCS 5/10-20.21(a)):
 - 1) On the date and time of a bid opening, the primary person conducting the electronic bid process shall log onto a specified database using a unique username and password previously assigned to the bidder to allow access to the bidder's specific bid project number.
 - 2) The specified electronic database must be on a network that: (i) is in a secure environment behind a firewall; (ii) has specific encryption tools; (iii) maintains specific intrusion detection systems; (iv) has redundant systems architecture with data storage back-up, whether by compact disc or tape; and (v) maintains a disaster recovery plan.
 - f. Each bidder is given at least three days' notice of the time and place of the bid opening. 105 ILCS 5/10-20.21(a).
 - g. Conduct that promotes deception and collusion during the bidding process is prohibited and may violate the Ill. Criminal Code, 720 ILCS 5/33E-1 et seq. Examples include interference with public contracting, bid-rigging, and acquisition or disclosure of bidding information by a public official.
 3. Following the opening of bids, the Executive Director (and Cooperative Attorney, if needed) determines the lowest responsible bidder and verifies the bidders' qualifications. Contracts are awarded at a properly called open meeting of the Operational Board. If the Executive Director recommends a bidder other than the lowest bidder, the Executive Director must provide the Operational Board with the factual basis for the recommendation in writing. The Operational Board, if it accepts a bid from a bidder other than the lowest, records the factual basis for its decision in its minutes. A contract arises only when the Operational Board votes to accept a bid, although written notice of the award will later be given to the successful bidder.

4. Notwithstanding the foregoing, the Cooperative is relieved from bidding when making joint purchases with other public entities in compliance with the Governmental Joint Purchasing Act 30 ILCS 525/.

LEGAL REF.: 105 ILCS 5/10-20.21, 5/10-20.44, 5/10-21.9, 5/21B-80, 5/22-94 and 5/24-5.
30 ILCS 580/, Ill. Drug Free Workplace Act.
35 ILCS 105/, Ill. Use Tax Act.
50 ILCS 510/, Local Government Professional Services Selection Act.
410 ILCS 170/10, Coal Tar Sealant Disclosure Act.

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