

Policy Name	Procurement Policy
Date Implemented	06-09-2023
Last Date Modified	5-05-2023, 1-25-19
Date Board Presented	06-09-2023
Date Exec/Finance Committee Approved	5-30-2023
Owner	Chief Financial Officer
Review Date	Annually

Procurement Policy

The purchase of equipment, materials, supplies and/or services is subject to the following provisions and the bidding process is open and competitive, and prices paid can be shown to be fair and reasonable. All procurement must be conducted in a manner providing fair and open competition and must not give preference to certain geographical locations. Whenever practicable, an effort should be made to purchase goods and services from small, minority, women, and labor surplus area firms. Procurement awards must be made only to responsible entities that possess the ability to successfully perform under the terms and conditions of the proposed procurement. Consideration will be given to such matters as contractor integrity, record of past performance, compliance with public policy, and financial and technical resources.

Informal procurement methods:

- a. Micro-purchase: A single purchase less than \$10,000 in aggregate does not require 3 bids but the purchaser is encouraged to locate the most competitive pricing. To the extent possible, purchases should be distributed equitably among qualified providers and pricing must be reasonable. One example is to obtain three price comparisons and document the same on the Purchase Requisition form (Attachment A). Ensure dates are included on all supporting documents as prices can fluctuate as frequently as daily. This procurement method must still meet the reasonableness test where the reasonableness test can be based on research, experience, purchase history, or other information and files must be documented accordingly. A micro-purchase does not require board approval. See also Section 2 "Purchase Requisition and Payment Procedure".
- b. Small purchase (less than Simplified Acquisition Threshold, as authorized by the National Defense Authorization Act (NDAA) for the current fiscal year, of \$250,000): Competitive bids are required for a single purchase of \$10,000 in aggregate or more unless the purchase meets the criteria for noncompetitive procurement or when purchasing on a government contract, as explained below. Three quotes must be obtained and the justification for the selection must be documented.
- c. All purchases (of equipment or facility renovation expenses including labor/set up fees) over \$5,000 (Per unit cost or in the aggregate for the total equipment or project purpose) must be submitted to NYS DOL for approval before purchase in accordance with Technical Advisory #17-03. The following information must be included with the request:

Description of equipment, actual or estimated cost of equipment, why it is needed, where it will be located, who will be using the equipment and price quote(s) of equipment with supporting documentation. Example: The procurement of 15 laptops totaling \$15,000 does not need to be pre-approved by NYS DOL. The procurement of various pieces of equipment to upgrade or maintain our network whereby the pieces work together as one for \$15,000 in the aggregate, would need pre-approval.

Formal procurement method:

- d. "Request for Proposal" (RFP) is to be used for all service contracts over \$10,000, where selection criteria are more extensive than only price and product quality. Once selection of a proposal is made, approval by the Board of Directors of CNY Works is required before the contract will be considered accepted. The RFP must be publicized and include all evaluation factors to bidders. Publicized methods available include but are not limited to: posting on CNY Works website, publishing in local newspapers (online and in print), and broadcasting over local radio and television stations and listserv distributions. An adequate number of solicitations from qualified sources must be made. Adequacy will depend on the type of procurement; but for example, if three bids are desired, five should be solicited in hopes of receiving three. The methodology for evaluation and selection of a proposal must be written. No bids will be for a period of more than one year but may have an extension option for up to four additional years. The Agency will not use sealed bids.

Noncompetitive procurement methods:

- e. Noncompetitive procurement. There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:
 - i. The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.
 - ii. The item is available only from a single source.
 - iii. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation; (As defined by FEMA).
 - iv. The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from CNY Works.
 - v. After solicitation of a number of sources, competition is determined inadequate.

Professional Development: Regardless of the procurement method used, Professional Development procurements can be procured once every three years.

One Stop System Operator (OSSO): Procurement of the OSSO must be competitively procured.

Procurement Procedures

The competitive procurement of goods and services necessary for the operation of CNY Works is the responsibility of the CNY Works Board of Directors, who have delegated this responsibility to the Executive Director and Chief Financial Officer (CFO), who in turn have delegated this function to the department directors.

It is the responsibility of the department directors to ensure that all department end users adhere to all of CNY Works Procurement Policies and Procedures.

Management is charged with the responsibility of maintaining an open and competitive process for procurement of goods and services. Bids and proposals from competing vendors are to be evaluated by management, and contracts awarded. As part of their stewardship responsibilities, departmental end users are encouraged to compare prices between vendors even when the purchase amount does not require a formal bidding procedure. An open and competitive purchasing environment requires that information pertinent to the bidding process be kept confidential until the conclusion of that process.

In the event there is a protest, dispute, or claim regarding pricing, terms, conditions, delivery, quantity, or substitution related to a purchase or procurement process, all pertinent information will be compiled by the department director and referred to the CFO for resolution. If the CFO deems it necessary, consultation with the Executive Director will be sought possibly leading to seeking advice from the Agency's Board Chairperson and/or outside attorneys.

1. Approved Procurement Methods

Various methods are available to CNY Works staff to facilitate the purchase of goods and services and to ensure the best value has been obtained. It is CNY Works policy that the purchase approval process be consistent among the various procurement methods. CNY Works purchases are exempt from the payment of New York State sales and use tax.

The methods approved for purchasing functions are as follows:

a. Distribution

The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro purchase threshold. To the maximum extent possible, CNY Works should distribute the micro purchase equitably among qualified suppliers.

b. Purchase Contracts

New York State Contract, Onondaga County Contract, Syracuse City Contract and Academic Pricing are those contracts that have been negotiated and contracted with the applicable agencies to provide goods and/or services with favorable terms for pricing, delivery and other factors. These contracts are used to provide staff with efficient access to commonly purchased goods and/or services, as well as needed in special circumstances when time is of the essence to prevent hardship. Prices, terms and conditions of sale have been pre-approved by the applicable agency. Three competitive bids are not required when using these methods of purchasing.

c. Solicitations

- i. All solicitations should include a clear and accurate description of the goods or services being procured. The description must not contain features that restrict competition.
- ii. All requirements that must be fulfilled and all other factors used in evaluating bids or proposals should be clearly defined by the purchase requisition or RFP.
- iii. Technical requirements described in terms of functions to be performed or performance required, including a range of acceptable or minimum acceptable standards should be included in the purchase requisition or RFP.
- iv. Specific features of "brand-name or equal" descriptions, if included in the solicitation, must be identified.

- v. If procuring goods or certain types of services, the details of any metric measurements must be defined.
- vi. Preferences for ecologically-sound and energy-efficient products should be considered.
- vii. For any procurement in excess of the Simplified Acquisition Threshold, as (currently \$250,000), a cost or price analysis must be completed and must include an independent estimate before receiving bids or proposals. This analysis will be in accordance with the criteria as defined in 2 CFR 200.323.

d. Request for Proposal (RFP)

- i. The RFP document will be prepared by a department Director and / or Deputy Director and reviewed by the Staff Accountant and / or CFO. Prior to the release date of the RFP, the RFP must also be reviewed, commented on, and approved by the Board.
- ii. Evaluation criteria must be included in the RFP and selection decisions will be documented. The RFP will contain evaluation criteria where the criteria defined are assigned a relative importance in terms of a point system.
- iii. All proposals and associated selection documentation will be maintained in the files for a period of 6 years.

Board approval shall be required for all program service contracts that exceed \$10,000. The Board provides management with the ability to execute the contract with the terms approved by the Board, and to amend the contract **without** further Board approval for the following:

- 1) Change in term length, that is less than ninety days;
- 2) Change to the original contract, where the original contract is >\$10,000, which, when considered cumulatively with previous changes, is less than \$10,000;
- 3) Change which increases the contract amount, but does not cause the total contract to exceed \$10,000, or
- 4) If a contract is never executed.

Any changes made that do not require approval will be reported to the Board for informational purposes.

2. Purchase Requisition (Attachment A to this policy) and Payment Procedure

All purchases except for the transactions that do not have to use purchase orders for payment listed below must be transacted through the issuance of a 3-part CNY Works Purchase Requisition. Information regarding the vendor and items being purchased should be clearly shown on the requisition. The employee is responsible for completion of the purchase requisition regarding pricing, terms, condition, quantity, delivery, and other factors, including adhering to CNY Works procurement policy. If the employee needs assistance completing the purchase requisition, they may ask for help from the Finance Department in obtaining pricing, terms, delivery and the required 3 bids. Copies of all information pertaining to the purchase must be attached to the purchase requisition.

If the requisition is prepared for customer training, the Account Administrator will prepare the voucher from information received from the Adult or Youth Director and prepare the requisition once the voucher is reviewed and approved. See Voucher Processing Checklist under Training Policies and Procedures for specifics on preparing ITA training vouchers and purchase requisitions.

CNY Works, Inc.

Upon completion of the purchase requisition, the employee must obtain approval from their supervisor.

After approval has been received, the purchase requisition distribution of the 3-Part CNY Works Purchase Requisition (found on f:\finance forms\purchase requisition template) will be as follows:

- a. Accounting Copy – given to the Accounts Administrator to be used to produce a purchase order, which gets reviewed, printed, and mailed to the vendor by the Accounts Administrator. The Staff Accountant and/or CFO will review the Purchase order when payment is processed.
- b. Department Copy – retained by the employee for departmental records, or in the customer file for training requisitions.
- c. Receiving Copy – forwarded to the Accounts Administrator as proof of receipt/proof that training has been completed beyond the refund expiration date. If applicable, a packing slip is attached.

When the invoice is received, the Accounts Administrator will match the invoice to the purchase order and receiving copy. With the exception of training invoices, if there is an exact match, accounts payable will pay the invoice within the accepted terms. If there is not a match between the invoice and purchase order, then the invoice will not be paid until the discrepancy is resolved and the overage/underage is approved.

Payments to training providers will be made upon receipt of the receiving copy from the Workforce Advisors, evaluation of the available funding, comparison to the PO for amount, term, and refund policy end date. Unliquidated PO amounts will be reviewed periodically and followed up with the appropriate program staff to be resolved. Bills that exceed the PO amount will not be paid until funding has been approved.

The transactions that do not have to use purchase orders for payment

1. Travel Reimbursements
2. Rent
3. Utilities
4. Insurance
5. Leased Equipment Payments
6. Internet Services
7. Other recurring monthly operating costs
8. Services for which there is an executed contract.
Note: Proof that services have been performed using the CNY Works Verification of Services Provided form must accompany a request for payment on all contracts.

Attendance at conferences that are paid for directly by CNY Works must be processed using the purchase order procedure. Conferences paid for by the employee and submitted through the Travel Reimbursement procedure will not require the use of a purchase order.

Corporate Credit Cards:

An Empower Federal Credit Union Credit card was applied for January 2023. The Executive Director and CFO will each have an agency Credit card. Purchases that require use of either credit card (i.e., online transactions, phone orders) will be requested and approved in advance through the purchase requisition process explained above. The CFO will either order the items directly or allow, at her discretion, the employee to take the credit card to complete the purchase and return it. All paperwork must be

completed prior to any credit card charge being submitted. Proper documentation of receipt must be attached when applicable. Any unauthorized charges will be the responsibility of the employee who incurs them. Credit cards should only be in the instance where the vendor will not accept a purchase order to deliver goods and services.

Payment of invoices will be made using a CNY Works check only. No petty cash is maintained. The Executive Director, Deputy Director, Chief Operating Officer, or Chief Financial Officer signs all checks. All operating checks over \$2,500 and all checks for training services over \$10,000 require two signatures.

3. Ethics, Confidentiality, and Conflict of Interest

It is the responsibility of each employee to ensure that CNY Works does not knowingly enter into any purchase commitment that could result in a real or apparent conflict of interest. Care must be taken to avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications. Any employee with questions about a particular situation should contact the Executive Director or Chief Financial Officer.

All procurement activities conducted on behalf of CNY Works must follow the following ethical standards:

- a. Analysis of lease vs. purchase options to determine the most “economical and practical” procurement.
- b. Follow lawful instructions, use reasonable care and do not exceed the authority granted.
- c. No purchases of unnecessary items.
- d. Do not engage in any private business or professional activity that would create a conflict between personal interest and the interests of CNY Works.
- e. Do not solicit or accept money, loans, credits, preferential discounts, gifts, gratuities, entertainment, favors or services from present or potential suppliers. Unsolicited gifts of a promotional nature and nominal value may be accepted, if they do not involve a commitment to do business or influence business. It is not permitted for CNY Works employees to accept either site visits or training from vendors.
- f. Handle confidential or proprietary information with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- g. Do not enter into reciprocal agreements that restrain competition.
- h. Do not use CNY Works systems for procurement of personal purchases or use CNY Works buying power for personal benefit.
- i. Any arrangements wherein individuals or entities knowingly and willfully offer, pay, solicit, or receive remuneration in order to induce business must be reported to the Executive Director, Chief Financial Officer or the Board of Directors.
- j. Contracts issued on a “time and materials” must have a ceiling cost applicable to the term of expected services and goods to be provided.
- k. Real or apparent conflicts of interest will be disclosed to department directors, CFO, Executive Director, Board of Directors and/or NYSDOL.

4. Fiscal Stewardship, Responsibilities and Accountability

a. Segregation of Duties

The CNY Works system of internal controls requires that different individuals perform the various functions of the procurement process. For example, persons who are authorized to procure goods and services may not approve those transactions or be connected to the payment of those transactions.

b. Verification of Receipt of Goods and/or Services

It is CNY Works practice to have vendors utilize direct shipment to the location of the departmental end user. It is the responsibility of the departmental end user to immediately inspect the shipment. Verification of receipt of goods and/or services must be made in a timely manner with notification to Finance.

It is the responsibility of the ITA monitoring staff to ensure all training billed has been completed past the refund expiration date as noted on the purchase requisition, or in accordance with an applicable contract.

c. Non-Competitive Purchase Awards

Non-Competitive Purchase Award is defined as the purchase of a product or service that is available from only one source; thereby exempting the purchase from the otherwise required three (3) competitive bidding policies of CNY Works, as described in item e above. To qualify for a non-competitive exemption, the staff member requesting the exemption must provide the CFO with detailed written documentation explaining why bidding the product or service meets one of the stated criteria in item e. Any necessary attachments must accompany the purchase requisition when it is sent to Finance.

Professional services that qualify for non-competitive purchase awards are based on competence, confidentiality, and continuity of services.

5. Contract Management

Contract execution and compliance will be accounted for by the fiscal staff as directed in the Contract Management Policy.

6. Small and Minority Businesses

The procurement process must take all necessary affirmative steps to ensure that small, minority, women's and labor surplus area firms are used whenever possible to include:

- Placing qualified businesses on solicitation lists
- Soliciting them whenever they are potential sources
- Dividing total requirements into smaller tasks or quantities when economically feasible
- Establishing delivery schedules to encourage their participation
- Using services of SBA or MBDA of the Department of Commerce requiring prime contractors to take the same steps

7. Domestic Preferences for Procurements

As appropriate and to the extent consistent with law, CNYW, to the greatest extent practicable under Federal award, must provide a preference for the purchase,

acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of 2 CFR Part 200.322 must be included in all subawards including all contracts and purchase orders for work of products under the award.

8. Made in America Laws

- All equipment and products purchased with WIOA funds should be American made. See WIOA Section 502 – Buy American Requirements
- Infrastructure Investment and Jobs Act and Build America, Buy America Act All federal financial assistance awards made after May 14, 2022, are subject to the NEW Build America, Buy America Act provisions
- Applicable for iron and steel manufacturing processes, manufactured products, and construction materials
- See also 2 CFR 200.322 Domestic preferences for procurements

9. Record Keeping

- Documentation will be retained for all phases of the competitive procurement process.
- All procurement records will sufficiently detail the history of the procurement and include but is not necessarily limited to the following:
 - Rationale for the method of procurement
 - Selection of the contract type
 - Contractor selection or rejection rationale (including procurements for leased properties)
 - The basis for the contract price
- All procurement records regardless of the method/transaction will be maintained in the files for six years.

10. The following uses and application of funds under procurement actions and engagement with outside entities must go before the Board of Directors:

- a. Content and issuance of an RFP prior to issue
- b. Award of funds to selected subrecipients or contractors
- c. Contractual engagements (such that the contract is provided for review and approved by the Board prior to signature), including:
 - i. Disability Resource Coordinator (DRC)
 - ii. One-Stop System Operator
 - iii. Adult, DW, Youth service provider
 - iv. Other services such as CPA/Single Audit services, marketing to recruit participants, etc.
- d. MOUs
- e. Leases
- f. Procurement action intended to acquire facility renovation or equipment acquisition costing \$5,000 or more – as this also requires prior approval from NYSDOL and subsequent approval from NYSDOL will be provided to the Chairperson in writing.

Definitions

These definitions are for terms used in the Procurement Policy. These definitions could be supplemented by additional instructional information provided in WIOA guidelines.

Apparent means seemingly real or true, but not necessarily so (as opposed to Real defined below)

Contractor Defined by:

- Provides similar goods or services to many different purchasers
- Provides the goods and services within the normal business operations
- Provides goods or services that are ancillary to the operation of the Federal program
- Not subject to the compliance requirements of the Federal program
- Provides goods and services for the grant recipient’s own use, creating a procurement relationship
- Funded by a procurement contract

Equitably means fairly and impartially

Fair and Open means impartial and just, without favoritism or discrimination; having access to (not a closed or blocked process)

Labor Surplus Area is a civil jurisdiction that has a civilian average annual unemployment rate during the previous two calendar years of 20% or more above the average annual civilian unemployment rate during the same 24-month reference period – a Labor surplus area firm (LSAF) is a contractor/subcontractor working in the labor surplus area

Management Individuals involved with the planning, organizing, actuating, control, oversight, and administration of CNY Works, Inc. Position title is Executive Director.

Real means actually existing as a thing or occurring in fact; not imagined or supposed (as opposed to Apparent defined above)

Service Contracts means an agreement with a contractor or subrecipient where CNY Works purchases property or services needed to carry out the project or program under a Federal award or grant

Subrecipient Defined by:

- Determines who is eligible to receive Federal assistance
- Performance is measured by whether the objectives of the Federal program are met
- Has responsibility for programmatic decision making
- Responsible for adhering to applicable Federal program requirements
- Funded by a subaward
- Uses Federal funds to carry out a program for a public purpose

See 2CFR 200.1 for additional federal grant and Agreement definitions

References/Relevant Guidance:

CNY Works, Inc. as a non-federal subrecipient of New York State must follow procurement standards in 2 CFR 200.318 through 200.327 and Technical Advisory #17-03.