



Committee Meeting: Policy & Governance Committee	Date: January 5, 2022
Committee Chair: Kathleen Masiello	
New or Edited: New	

POLICY NAME: Procurement Policy

POLICY TYPE: Board

SUBMITTED BY: Paul Danieu, Business Manager-Risk Assessment

ISSUE OR STATEMENT OF PURPOSE: Community Colleges must procure commodities and services in accordance with Article 5-A of the New York State General Municipal Law. This law is designed to ensure the prudent and economical use of public monies and facilitate the acquisition of quality goods or services at the lowest possible cost, as well as to guard against favoritism, improvidence, extravagance, fraud, and corruption. Specifically, Sections 103 and 104(b) of Article 5A address procurement by public entities in New York State.

- Section 103 governs the process of public bidding, including when it is required and how it is administered.
- Section 104(b) governs the process for procurement of goods and services that fall outside of the public bid requirement.

It is the intent of this policy and these procedures to set forth the procurement requirements for SUNY Erie Community College, and to ensure full compliance with the law. In accordance with General Municipal Law section 104-b, said policy and procedures shall be annually reviewed by the Board of Trustees.

NEW OR EDITED POLICY: New; The Purchasing Policies and Procedures as required under General Municipal Law last updated October 25, 2016 and the Professional Services and Specialized Products RFP policy last approved November 21, 2016 have been re-written and combined into one new policy.

SCOPE:

SUNY Erie Community College is committed to procuring goods and services via a process that assures the prudent and economical use of public monies for the benefit of all constituents of SUNY Erie Community College and Erie County.

The College Purchasing Department is responsible for purchasing commodities and services for all College departments, as well as for assisting in the procurement of professional architectural, engineering and like services. Specialized products such as software and other technology related products or services are also covered under this policy.



POLICY NAME: Procurement Policy- **Continued**

This policy applies to all College employees and to all organizational units of the College, including departments and programs. This policy also applies to purchases funded by federal, state, or private grant funds.

The College Purchasing Department does not have purchasing responsibility or oversight for the Auxiliary Services Corporation of Erie Community College or the SUNY Erie Community College Foundation.

All purchasing is carried out in strict accordance with State and County ethics codes, State University of New York regulations concerning community colleges and public purchasing laws and regulations. All statutory procurement requirements and procedures, including publication, evaluation and awarding of bids, awarding of contracts and retention of procurement records are performed in accordance with Article 5-A, sections 103 et seq., of the General Municipal Law.

Planning is key to a successful procurement. A well-planned solicitation effort is needed to reach as many qualified suppliers as possible and may save the College money by the competition generated as a result. Planning also allows adequate time for the necessary steps and approvals to take place and will ensure continuity in College operations. Departments are encouraged to begin the process 6 months in advance of current contract end dates.

DEFINITIONS

- A. Aggregate Buy:** A procurement method whereby the total estimated campus-wide demand for a commodity or service is bid collectively in order to achieve the lowest possible pricing. An aggregate buy is generally conducted on an annual, biannual, or quarterly basis.
- B. Annual or Annually:** Refers to the twelve-month period commencing on the date of purchase.
- C. Best Value:** The basis for awarding contracts for services to the offerer which optimizes quality, cost, and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective, and quantifiable analysis. Such basis may also identify a quantitative factor for offerers that are small businesses, certified minority or women owned business enterprises (NY State Finance Law §163(j)).
- D. Contract:** A written agreement between the College (the Buyer) and a seller (the Supplier). These documents specify various terms and conditions to which the parties must adhere. Some examples of these terms and conditions include, but are not limited to, price, delivery terms, description of the commodity or service being procured, payment terms, duration of the contract, liability clauses and any other requirements of either buyer or seller.



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- a. Installment Purchase Contracts:** This type of agreement would allow the College to finance the acquisition of assets and/or large purchases over a period of time. These contracts require the College to pay the seller in a series of partial payments and may or may not include interest charges.
- b. On-Call Agreements:** A business process where a bid or RFP results in an agreement for services and the awarding of contracts for future work for the same services to a single firm or multiple firms. When services are required, the originating department issues task orders to the firm with whom the College has entered into an on-call contract. The originating department enters requisitions as services are performed under the contract.
- c. Personal Service Contract:** A type of contract for services which are unique to an individual, such as, but not limited to a visiting lecturer, art model, artist, license requirement, special technical skills, training, or expertise, etc.
- d. Piggybacking Agreement:** The College's agreement that is used when utilizing services and certain types of other products and software based off another entity's procurement (designated preferred sources, New York State OGS contracts, SUNY contracts, and contracts let by other agencies located within New York and National Regional Cooperative Contracts). This agreement is used when the Master Service Agreement does not provide a template or specific agreement. It is used to establish the method of procurement, establish the 'procurement record' and include any standard terms that may not be in another entity's Master Service Agreement.
- e. Professional Service Contract:** A type of contract for services with a company, partnership, corporation, or a professionally licensed individual to provide services requiring licensing, special technical skills, training, or expertise, etc.
- f. Public Works Contract or Construction Contract:** A contract awarded to the lowest responsible bidder after advertising an Invitation to Bid (ITB), also called a Formal Sealed Bid in the manner prescribed in General Municipal Law §103(2) for capital improvements to the College's infrastructure. These contracts are typically issued by the Erie County Department of Public Works.
- g. Standard Agreement:** The College's agreement that is used when purchasing services and certain types of other products and software. This can be a stand-alone agreement or incorporated into solicitation documents.
- h. Supplier's Contract:** An agreement issued by the Supplier between the College (the Buyer) and a seller (the Supplier). This type of contract must be reviewed and approved by the Erie



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County Department of Law. Supplier contracts that include automatic renewals shall not be accepted.

- i. Specialized Product Contract:** A type of contract for the purchase of a specialized product, most commonly software or information technology products that meets a special need.
- E. Contractor/Supplier:** Any person or entity receiving an award to perform services or provide goods.
- F. Cooperative Purchasing Contract:** The phrase cooperative purchasing or cooperative procurement refers to the process of combining requirements for two or more public procurement entities to get the benefits of volume purchasing, delivery and supply chain advantages, best practices, and the reduction of administrative time and expenses. As a result of cooperative procurement efforts, other entities may create contracts that “piggyback” to gain the cost advantages they would not otherwise receive if they competed on their own.
- G. Emergencies:** An urgent and unexpected situation where health and public safety are at risk. Pursuant to Erie County Administrative Code Section 3.07 (b) and General Municipal Law §103(4), emergency purchases may be made without competitive bidding in the event that a public emergency arises due to an accident or other unforeseen any occurrence. Emergencies do not include situations caused by a lack of planning on the part of any department.
- H. Formal Sealed Bid:** A competitive solicitation seeking bids for a specified commodity or service, pursuant to which award is made to the responsive and responsible bidder(s) submitting the lowest price after public advertisement for sealed bids. Current monetary threshold as required by General Municipal Law §103(1) is expenditures more than \$20,000.00 for goods and services and more than \$35,000.00 for Public Works contracts.
- I. Informal Bid:** A competitive solicitation in lieu of a Formal Sealed Bid for purchases below current monetary thresholds awarded to the lowest responsible bidder after at least three (3) written or electronic quotes are received or requested. If, after every attempt was made to obtain at least three quotes, the buyer is unsuccessful, then the name and contact information of the supplier(s) to which the requests were made must be documented on the procurement record.
- J. Master Service Agreement:** The agreement that governs the terms and conditions when utilizing another entity’s procurement. A piggybacking agreement may also be necessary if the Master Service Agreement does not provide a template agreement or specific agreement to use to formalize the relationship.



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- K. Minority or Women Owned Business Enterprise (M/WBE):** A business certified under Article 15-A of the Executive Law that is independently owned, operated and authorized to do business in New York State; and is owned and controlled by at least fifty-one percent women or minority group members who are U.S. or permanent resident aliens. Such ownership must be real, substantial, and continuing; and the minorities or women must have and exercise the authority to control independently the day-to-day business decisions of the enterprise.
- L. Preferred Source:** In order to advance special social and economic goals, State Finance Law §162 requires that a governmental entity purchase commodities and services from designated organizations when the commodities or services meet the "form, function and utility" requirements of the governmental entity. Under State Finance Law §162, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; Industries for the Blind of New York State, Inc.; New York State Industries for the Disabled; and the Office of Mental Health. These requirements apply to a state agency, political subdivision, and public benefit corporation (including most public authorities).
- M. Procurement Record:** Documentation of the decisions made and the approach taken in the procurement process are all kept in the procurement record (State Finance Law §163(f)). The procurement record, including the solicitation documents, shall contain all the materials necessary for contract review purposes and must include each amendment to a contract and the justification for the same. When utilizing another entity's procurement, the procurement record should also include documentation or reference to the process of contract selection as detailed under exceptions to competitive bidding.
- N. Public Work:** Construction, reconstruction or maintenance done on behalf of a public agency and therefore subject to prevailing wage requirements.
- O. Purchase Order (PO):** Basic contractual document, issued by the Purchasing Department, which is generally for a "one time" purchase. A PO usually consists of the supplier's name/address, a description of the item, quantity, cost per item, shipping terms and total cost. The PO solidifies the terms of the purchase.
- P. Request for Proposals (RFP):** A competitive solicitation seeking proposals for a specified service or technology which is exempt from competitive bidding requirements of the General Municipal Law §103, pursuant to which an award is made by an RFP evaluation committee to the responsive and responsible proposer(s) offering the best value for the required skill set.
- Q. Request for Qualifications (RFQ):** A document used to obtain qualifications of firms when the College is seeking services to address a particular need. This process is used to develop a "short list" of qualified firms to be invited to respond to an RFP.



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- R. Single Quotation Process:** A written or electronic price quote for goods and services purchases at or below a certain threshold where no competitive solicitation is required (currently \$5,000.00).
- S. Single Source:** A procurement in which although two or more offerers can supply the required commodities or services, the Purchasing Department, upon written findings setting forth the material and substantial reasons therefor, may award a contract to one offerer over the other. The procurement record shall contain documentation of the circumstances leading to the selection of the supplier, including the alternatives considered, the rationale for selecting the specific supplier and the basis upon which it determined the cost was reasonable (State Finance Law §163(h)).
- T. Sole Source:** A procurement in which only one offerer is capable of supplying the required commodities or services (State Finance Law §163(g)).
- U. Specifications:** The specification document sets forth the standards and requirements that competitors must observe and provides them with information necessary to prepare their bids or offers.
- V. True Lease:** An agreement that puts no obligation on the lessee to purchase the leased asset at the end of the agreement. True lease agreements shall not be considered a purchase or contract for public work and, thus, are not subject to competitive bidding under General Municipal Law §103. The bidding requirements of section §103 cannot be avoided by simply casting an agreement that is truly a purchase contract or a contract for public work in terms of a lease. Lease agreements require Board of Trustees approval and must include a cost benefit analysis of leasing vs. purchasing.
- W. Unauthorized Purchase:** An agreement, a commitment or an order for goods or services or a change to an existing contract by any person who does not have express written delegation of procurement authority to bind SUNY Erie Community College. Unauthorized purchases are not binding, and the supplier may be advised to seek payment from the employee. Employees not following this policy, who make an unauthorized purchase, will be subject to progressive discipline per their respective collective bargaining agreement.



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POLICY

A. Overview of the College Approval and Signature Process:

All College contracts shall be approved and executed after approval of the Erie County Department of Law. Contracts requiring Board of Trustees and/or Erie County Legislature approval should not be presented to these bodies for approval until after the Erie County Department of Law has made their review and approval.

The recommended contract term (duration) for public works and maintenance type contracts is one-year with two one-year extensions. For other contract types, including software, the recommended term is three or five years with two one-year extensions. Supplier contracts that contain automatic renewals shall not be accepted.

1. Contracts that are being executed as the result of competitive College bids, College quotes, New York State OGS, Erie County contracts, SUNY contracts or certain other Government contracts, including cooperative contracts, may be approved and executed by the Business Manager after Erie County Department of Law approval. Contracts based off another entity's procurement shall include those awarded by low bid or best value.
 - a. For contracts based off of another entity's procurement, the contract selection process (how the contract was selected, including "best value" determination if applicable) and associated documents must be provided to the Erie County Department of Law and included in the procurement record.
2. Contracts as a result of emergency, sole source or single source procurements which are deemed exempt from competitive bidding requirements of General Municipal Law §103 may be approved and executed by the Business Manager after Erie County Department of Law approval. Required documentation to be included with legal review.
3. Contracts as a result of the College's RFP process for personal/professional services or specialized products (including contracts exempted from the RFP process due to a circumstance of sole source, single source or undue burden) shall be approved and executed as follows:
 - a. Wherein the annual contract expenditure is \$10,000.00 or less, the contract shall be approved and executed on behalf of the College by the Business Manager after review and approval by the Erie County Department of Law.



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- b. Wherein the annual contract expenditure is more than \$10,000.00, but less than \$30,000.00, the contract shall be approved and executed on behalf of the College by the College President after review and approval by the Erie County Department of Law.
 - c. Wherein the annual contract expenditure is more than \$30,000.00, but less than \$50,000.00, the contract shall be approved by the Board of Trustees after review and approval by the Erie County Department of Law. The contract shall then be executed on behalf of the College by the College President.
 - d. Wherein the annual contract expenditure is \$50,000.00 or more, the contract shall be approved by the Erie County Legislature after the approval of the Board of Trustees and approval by the Erie County Department of Law. The contract shall then be executed on behalf of the College by the College President.
4. Any type of Installment Purchase Contract where the purchase is financed over several years cannot be a transaction undertaken solely by the College due to limitations in New York State procurement laws. This type of transaction must be coordinated with Erie County and approved by the Board of Trustees and the Erie County Legislature. The Business Manager shall be consulted when such a purchase is being contemplated.

B. Competitive Bidding Process:

- 1. All purchase contracts for goods and services involving expenditures more than \$20,000.00 and contracts for public work involving expenditures more than \$35,000.00 are generally awarded to the lowest responsible bidder after advertising a Formal Sealed Bid in the manner prescribed in General Municipal Law §103(2). Alternatively, purchase contracts including contracts for service work (but excluding any purchase contracts necessary for the completion of a public works project pursuant to article 8 of the Labor Law) may be awarded through a request for proposals (RFP) process on the basis of best value as defined by the New York State Finance Law §163. The RFP process is covered later in the Policy.
 - a. Formal sealed bids are advertised in a newspaper with a circulation of at least 50,000 and are also advertised via an on-line advertising and bid retrieval system to encourage competition and aid in bid distribution. The College currently uses BidNet Direct for this purpose.
 - b. Bid packages are also mailed or emailed to prospective bidders.



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2. If the monetary threshold for the purchase of particular goods and services or public works contract is not reasonably anticipated, on an annual aggregate basis, to exceed the Formal Sealed Bid thresholds of \$20,000.00 and \$35,000.00 respectively, the following procedures shall be followed:

Goods and Services

- a. **\$0.01 – \$5,000.00** Awarded at the discretion of the College Buyer upon submission of a written or electronic price quote. If it is felt that lower prices can be obtained, competitive quotes shall be solicited.
- b. **\$5,000.01 - \$20,000.00** Awarded to the lowest responsible bidder/proposer after at least three (3) written or electronic quotes or proposals are received or requested. If, after every attempt was made to obtain at least three quotes or proposals, the buyer is unsuccessful, then the name and contact information of the supplier(s) to which the requests were made must be documented on the procurement record.

Public Works Contracts

- a. **\$0.01 – \$5,000.00** Awarded at the discretion of the College Buyer upon submission of a written or electronic price quote. If it is felt that lower prices can be obtained, competitive quotes shall be solicited.
 - b. **\$5,000.01 - \$35,000.00** Awarded to the lowest responsible bidder/proposer after at least three (3) written or electronic quotes or proposals are received or requested. If, after every attempt was made to obtain at least three quotes or proposals, the buyer is unsuccessful, then the name and contact information of the supplier(s) to which the requests were made must be documented on the procurement record.
3. If an award is made to a supplier other than the lowest price offered, written documentation stating the basis for such award and a justification that the award is in the best interest of the College must be provided to and retained by the Purchasing Department in the procurement record for a period of seven (7) years.
 4. Specifications are prepared by the requesting department with the assistance of the Purchasing Department.

C. Exceptions to Competitive Bidding Requirements and Procedures for such Purchases:

The following purchases are exempt from competitive bidding requirements of General Municipal Law



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§103.

When utilizing services off another entity's procurement, a Piggybacking or Standard Agreement may be necessary depending on each individual Master Service Agreement for the procurement. Each Master Service Agreement should be reviewed to determine how the relationship will be formalized.

1. Under New York State Finance Law §162, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include:
 - a. New York State Department of Correctional Services Division of Industries (Corcraft)
 - b. Industries for the Blind of New York State, Inc. (IBNYS)
 - c. New York State Industries for the Disabled, Inc. (NYSID)
 - d. Office of Mental Health
2. New York State Office of General Services ("OGS"): Purchases of materials, food products, equipment or supplies and contracts to obtain services may be made through contracts procured by the New York State OGS.
3. County contracts: Purchases of commodities and services may be made through competitively bid county contracts, where such contracts contain language specifically authorizing governmental entities covered by General Municipal Law §103 to do so.
4. Certain Other Government Contracts: General Municipal Law §103(16) authorizes the purchase of apparatus, materials, equipment, and supplies, and to contract for services related to the installation, maintenance or repair of those items, through the use of contracts issued by the United States or any agency thereof, or any state or any political subdivision or district therein. For this exception to apply, the contract must also be let either to the lowest responsible bidder or on the basis of best value in a manner consistent with GML §103 and made available for use by other governmental entities.
 - a. National/Regional Cooperative Contracts: Cooperative contracts awarded as a result of a competitive process and in compliance with General Municipal Law §103(16) may be used as an exception to competitive bidding. Cooperative contracts shall only be used after first investigating designated preferred sources, New York State OGS contracts, SUNY contracts, and contracts let by other agencies located within New York. Documentation of the contract selection process and best value determination shall become part of the procurement record (State Finance Law §162).



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- b. The Buyer may decide to, or be directed to, obtain competitive bids or proposals if it is felt that lower prices or best value can be obtained.
5. **Emergencies:** County Administrative Code, Section 3.07(b) and General Municipal Law §103(4) provides such purchases may be made without competitive bidding in the event that a public emergency arises due to an accident or other unforeseen ~~any~~ occurrence. Emergencies do not include situations caused by a lack of planning on the part of any department. While a specific department may request an emergency purchase, the College President with approval of the Erie County Department of Law determines if the purchase qualifies as an actual emergency. The Erie County Department of Law will determine if the statutory criteria are met on a case-by-case basis. If approved, the College President may issue an emergency declaration.
6. **Sole Source Procurements:** The Business Manager may waive the bidding requirement when circumstances are presented which serve the public interest. It is important to note that there must be a single supplier of the item(s) or service and no substantial equivalent exists. Sole Source situations generally exist when an item is manufactured by only one firm and a supplier has the exclusive franchise or distributorship for an item. This includes, but is not limited to, items such as computer software and licenses, computer equipment and technology updates that support and maintain existing systems. Documentation for this type of procurement must be submitted to the Business Manager for review and approval with the following information to be included in the procurement record: (1) the unique nature of the requirement; (2) the basis upon which it was determined that there is only one known supplier able to meet the need (which must include the steps taken to identify potential providers); and (3) the basis upon which the cost was determined to be reasonable (such as comparison to supplier's catalogs, published price lists, or comparison to public sector pricing or previous comparable pricing).
7. **Single Source Procurements:** A procurement in which although two or more offerers can supply the required commodities or services, the Purchasing Department, upon written findings setting forth the material and substantial reasons therefor, may award a contract to one offerer over the other. Documentation for this type of procurement must be submitted to the Business Manager for review and approval with the following information to be included in the procurement record: (1) circumstances leading to the selection of the supplier, including the alternatives considered; (2) the rationale for selecting the specific supplier; (3) the basis upon which it determined the cost was reasonable (such as comparison to supplier's catalogs, published price lists, or comparison to public sector pricing or previous comparable pricing) (State Finance Law §163(h)).
8. **True Lease:** True lease agreements shall not be considered a purchase or contract for public work and, thus, are not subject to competitive bidding under General Municipal Law §103. The bidding requirements of section 103 cannot be avoided by simply casting an agreement that is truly a purchase



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contract or a contract for public work in terms of a lease. Lease agreements require Board of Trustees approval and must include a cost benefit analysis of leasing vs. purchasing.

9. Professional Services requiring licensing, special technical skill, professional judgement, training or expertise and personal services for visiting lectures, artists, etc. are not subject to competitive bidding. Nevertheless, such services must be procured in a manner so as to assure the prudent and economical use of College funds and to ensure acquisition of such services at best quality and the lowest possible cost under the circumstances. Professional Services can include, but are not limited to, the hiring of interpreters, consultants, evaluators, physicians, engineers, architects, or programming services for customized software. Specialized products can include, but are not limited to software operating systems, customized software and licenses, and other technology related products. Procurement of such services and products will be done in accordance with the procedures outlined in the section entitled “Professional/Personal Service and Specialized Products Contracts” below.

D. Professional/Personal Service or Specialized Products Contracts (RFP Process):

A “Professional Service Contract” is a contract with a company, partnership or corporation or a professionally licensed individual to provide services requiring licensing, special technical skills, training or expertise.

A “Personal Service Contract” is a contract for services which are unique to an individual, such as, but not limited to a visiting lecturer, art model, artist, or expertise etc.

A “Specialized Product Contract” is a contract for specialized or unique products. This is typically unique information technology products and software.

1. Personal/Professional Service and Specialized Products contracts are not subject to competitive bidding requirements but will be procured in a competitive manner. Depending on the anticipated annual expense for the product or service, the following procedures should be followed:
 - a. **\$0.01 – \$5,000.00** Awarded at the discretion of the Business Manager upon submission of a written or electronic price quote.
 - b. **\$5,000.01 - \$20,000.00** Requesting department must obtain a minimum of three written quotes or proposals and shall provide written documentation/rationale supporting the supplier award recommendation to the Business Manager for review and approval to proceed (subject to full approval as indicated in section “A” Overview of the College Approval and Signature Process). If, after every attempt was made to obtain at least three quotes or proposals, the department is unsuccessful, then the name and contact information of the supplier(s) to which the requests were made must be documented on the procurement record.



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c. **\$20,000.01 and above** Requesting department is required to issue a formal RFP for which the results will be submitted to the Business Manager for review and approval to proceed (subject to full approval as indicated in section “A” Overview of the College Approval and Signature Process).

2. There may be circumstances when the issuance of a formal RFP or the solicitation of alternative proposals/quotations for personal/professional services or specialized products will not be in the best interest of the College. Listed below are such circumstances and the procedures that should be followed for each. Said procurements will be subject to full approval as indicated in section “A” Overview of the College Approval and Signature Process. Please note that failure to plan ahead is not an acceptable circumstance to be excused from issuing a formal RFP or soliciting proposals/quotes.

a. **Sole Source:** Documentation for this type of procurement must be submitted to the Business Manager for review and approval with the following information to be included in the procurement record: (1) the unique nature of the requirement; (2) the basis upon which it was determined that there is only one known supplier able to meet the need (which includes the steps taken to identify potential providers); and (3) the basis upon which the cost was determined to be reasonable (such as comparison to supplier’s catalogs, published price lists, or comparison to public sector pricing or previous comparable pricing).

It is important to note that there must be a single supplier of the item(s) or service and no substantial equivalent exists. Sole Source situations generally exist when an item is manufactured by only one firm and a supplier has the exclusive franchise or distributorship for an item. This includes, but is not limited to, items such as computer software and licenses and technology updates that support and maintain existing systems.

b. **Single Source:** Documentation for this type of procurement must be submitted to the Business Manager for review and approval with the following information to be included in the procurement record: (1) circumstances leading to the selection of the supplier, including the alternatives considered; (2) the rationale for selecting the specific supplier; (3) the basis upon which it determined the cost was reasonable (such as comparison to supplier’s catalogs, published price lists, or comparison to public sector pricing or previous comparable pricing).

There must be documented material and substantiated reasons as to why one supplier was selected over the other(s).

c. There may be emergency or unique situations, such as undue burden, either financially or timewise, when it is not in the College’s best interest to secure professional/personal services or specialized products through alternate proposals or quotations. The College must weigh the cost



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of preparing the solicitation and undertaking the review process against the benefit to the College. Documentation of this type of exception must be submitted to the Business Manager for review and approval with the following information to be included in the procurement record: (1) description of circumstances which the department has determined would jeopardize a project or otherwise be detrimental to the College if a solicitation were administered therefor leading to the selection of the supplier, including the alternatives considered; (2) description of any prior history with the chosen supplier and an explanation of why the department believes it is in the College's best interest to continue with that supplier; (3) the basis upon which it determined the cost was reasonable (such as comparison to supplier's catalogs, published price lists, or comparison to public sector pricing or previous comparable pricing).

E. Miscellaneous:

1. Unless an emergency (as defined in the "Definitions" herein) exists, absolutely no contractor or supplier shall be given any formal or informal notice to proceed with services or deliver any goods until all required final approvals, written and electronic, and encumbrances of funds have been obtained from the College. A tentative award does not guarantee that the resultant contract or purchase order will be approved by the College and such award is not adequate justification to give notice to proceed or deliver goods.
2. Every Formal Sealed Bid and Request for Proposal submitted for advertisement must include documented results of a Minority and Women Owned Business Enterprise (M/WBE) supplier search from the Empire State Development Minority and Women-Owned Business Searchable Database located at <https://esd.ny.gov/doing-business-ny/mwbe>.
3. Insurance requirements for suppliers are to be reviewed and approved by the Erie County Attorney's Office on a periodic basis. The purchase of insurance is to be coordinated through the Erie County Attorney's Office.
4. An agreement, a commitment or an order for goods or services or a change to an existing contract by any person who does not have express written delegation of procurement authority to bind SUNY Erie Community College will be considered an Unauthorized Purchase. Employees not following this policy will be subject to progressive discipline per their respective collective bargaining agreement.

Unauthorized purchases are not binding, and the supplier may be advised to seek payment from the employee. Unauthorized Purchases include the following: (1) Placing an order without an approved purchase order or supplier contract; (2) Placing an order either before or after submitting the requisition on the assumption that a purchase order or supplier contract has or will be approved; (3) Overspending the authorized amount of a supplier contract; (4) Coercing a



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supplier to initiate an order on the promise that a PO is forthcoming; (5) Using personal funds to make a purchase of goods or services that would normally require the involvement of the Purchasing department to secure competition, approve sole source or otherwise comply with SUNY Erie Community College policy and procedure with the intent to seek personal reimbursement.

5. In accordance with General Municipal Law § 104-b the Procurement Policy will be submitted for annual review to the Board of Trustees's Policy Committee at the start of the third quarter for each fiscal year (each March 1st.) The Board of Trustees will have the reviewed policy placed on the last Board of Trustees meeting agenda for approval of that same fiscal year. The approved policy will then be effective commencing the following fiscal year.

DOES IT SUPERCEDE A POLICY/WHICH ONE (if so, attach redline version):

The Purchasing Policies and Procedures as required under General Municipal Law last updated October 25, 2016 and the Professional Services and Specialized Products RFP policy last approved November 21, 2016.

POLICY & GOVERNANCE COMMITTEE RECOMMENDED ACTION:

Policy & Governance Committee recommends the Board of Trustees approve this Board policy under Committee Briefings, Policy and Governance Committee. This Policy supersedes all prior policies/procedures and practices related to the procurement of goods, services or specialized products.

POLICY & GOVERNANCE COMMITTEE MEMBERS PRESENT: Kathleen M. Masiello, Committee Chair, SUNY Erie Board of Trustees Secretary, Leonard Lenihan, SUNY Erie Board of Trustees, Travis Poling, SUNY Erie Student Trustee, Adiam Tsegai, Interim Provost & Executive Vice President, Phil Struebel, Interim Vice President of Enrollment Management, Arta Pllana, Comptroller, Joanne Colmerauer, Dean of Liberal Arts and Science, Petrina Hill-Cheatom, Dean of Students

DATE OF BOARD APPROVAL: January 27, 2022

POLICY & GOVERNANCE COMMITTEE TEAM FOLLOW-UP:

Following Trustee approval, this Board policy will be included in the SUNY Erie Community College Board of Trustees Policy Manual.

INFORMATION/INPUT CONSIDERED DURING POLICY & GOVERNANCE COMMITTEE DELIBERATIONS:

General Municipal Law §§ 103, 104, 104-b
New York State Finance Law §162 & §163



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Erie County Charter §§ 306 & 2602
 Erie County Administrative Code §§ 3.06, 3.07 & 19.08
 New York State Comptroller Local Government Guide: Seeking Competition in Procurement
 Nassau Community College Procurement Policy
 Suffolk County Community College Procurement Policy

The Policy has been reviewed and discussed at the Policy & Governance Committee meeting of October 13, 2021 & January 5, 2022.

History

Item:	Date:	Explanation:
Policy adopted	January 27, 2022	
Annual BOT Review/Reaffirmed		
Previously Reviewed and Extended		
Renamed		

SUNY Erie Cross References

Policy Name or Procedure:	Where to find: