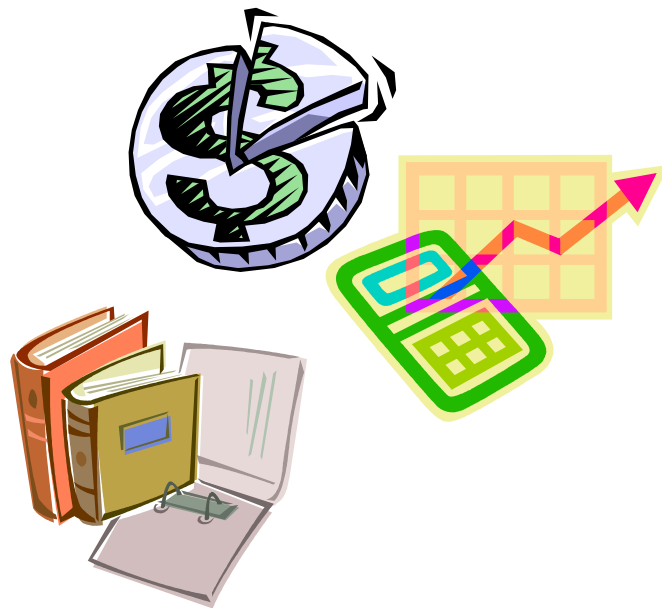


Module 9

Bidding, Purchasing, and Leasing

Instructor Guide



Financial/Managerial Series

This course includes content developed by the Pennsylvania Department of Environmental Protection in cooperation with the following grantees:

RCAP Solutions, Inc.
Penn State Harrisburg Environmental Training Center

Training Module 9

Instructor Guide

Bidding, Purchasing, and Leasing

Objectives:

By the end of the course, the learner should be able to:

- Determine which of the 4 types of options available for obtaining equipment is the best to use for a particular water system and situation.
- Determine if a purchase should be a bid or negotiated (non-bid) purchase.
- Identify the types of purchases that are exempt from bidding requirements.
- Perform proper bidding procedures (including specifications, advertising, procurement, awarding bids, unsatisfactory outcomes, challenges and bid withdrawals).

Key Points:

- Government purchases must adhere to rules that do not apply to the private sector. These rules are intended to eliminate any favoritism or unfair advantages among companies competing for government business, especially those in which public officials may have a personal or financial interest.
- Competition should be used as much as possible to ensure best use of taxpayer dollars.
- Options for purchasing equipment include buying, renting, leasing, and leasing with the option to purchase. Each has advantages and disadvantages to consider.
- There are several exemptions to mandated bidding. However, even when bidding is not mandated, it may still be a good option.
- A bidding process must be strictly adhered to when it is chosen, and bidding documents must be very clear and detailed to explain what vendors should provide.
- Prepare detailed, well written contracts for all major purchases or service agreements.
- There are agencies and professional organizations that can provide further training in procurement.

Methods: Lecture

Time: 90 minutes

Materials:

- *PowerPoint presentation*
- *Laptop*
- *Projector*
- *Training Module 9 Workbooks*
- *Flipchart and markers*
- *DCED Purchasing Handbook*

Instructor preparation note: *It is recommended that you review the PowerPoint slides and talking points provided with this instructor guide in order to tailor the content and style of delivery to your particular setting, audience, and time constraints. The talking points are instructor comments designed to accompany the slides or materials handed out and are not intended as handouts themselves.*

Organize workbooks so that they can be passed out to learners prior to the start of the training. To save time and keep your audience focused, try to plan for and minimize any possible disruptions and transitions between activities.

After opening the PowerPoint file, the slide show can be viewed by selecting the “View Show” command under the “Slide Show” menu button. The slide show can be ended with “Esc”. Slides can be advanced with “Enter”, “PgDn”, the down arrow or the right arrow. You can go back to the previous slides with “Backspace”, the up arrow or the left arrow.

Any websites referenced in the training module should be checked by the instructor prior to the training session since these may change over time. The same applies to contact information.

Additionally, answers to exercises are not generally included in the workbooks. Be certain to review these answers with the learners.

Training Module 9

Bidding, Purchasing, and Leasing



Objectives:

The purpose of this training module is to:

- Determine which of the 4 types of options available for obtaining equipment is the best to use for a particular water system and situation.
- Determine if a purchase should be a bid or negotiated (non-bid) purchase.
- Identify the types of purchases that are exempt from bidding requirements.
- Perform proper bidding procedures (including specifications, advertising, procurement, awarding bids, unsatisfactory outcomes, challenges and bid withdrawals).

Introduction and Objectives



Instructor Note: Display Slide # 0. Welcome learners to the training. Introduce yourself and ask learners to introduce themselves including job title and system name if desired.



Instructor Note: *Display Slide #1. Give the learners a few minutes to read through the example, then review the example and key points afterward.*

The example of Smallville vs. Middleville Construction offers a lesson all local government officials should take to heart. This is based on a true story, although the names have been changed.

Take a few minutes to read through the example before we review it.

“Once upon a time, Smallville put a road paving contract out to bid. Although Smallville had some help from its engineer, they themselves issued the final bid package. Middleville Construction, the lowest out of five bidders, was selected. They performed the paving job, and received payment as specified in their contract.

Several months later, the newly paved road was already beginning to look like it had been neglected for a decade. The asphalt was buckling, huge potholes were forming, and the residents living along the road were furious. What had gone wrong?

The Smallville town manager called Middleville Construction for answers, criticizing their shoddy work and demanding they redo the project at no charge or return the payment in full. At a meeting the following week, Middleville came armed with a bidding package, and calmly explained that the reason the road was already failing was because only one inch of asphalt was laid. Typically one would expect at least four inches on a roadway of this nature. But Middleville Construction had followed the directions in the bid specifications, which called for only one inch.

After reviewing the bid specifications and talking with the secretary and engineer that had prepared them, it was learned that between the two of them a mistake had been made. The engineer had given the secretary a boilerplate bid specification from a previous job. He thought the secretary knew that four inches would be needed because she had informally been present at a meeting in which the engineer explained to the town manager what the project entailed. He didn't

know the specifications listed 1 inch, but tried to blame the secretary for not catching the mistake. But both the engineer and the town manager felt that Middleville Construction should have caught the error, since they were experienced pavers.

Middleville Construction explained that they had bid on what the specifications called for. After all, they were competing with other contractors that may have also based their bid on one inch. It was not Middleville's fault the specification was wrong."

The case went to court, and the judge found in favor of Middleville.

Does anyone know why?

Smallville was ultimately responsible for ensuring their specifications spelled out what they wanted.



Instructor Note: Display Slide #2.

The bidding, purchasing and leasing of equipment and services is an important function for the owner/manager of a drinking water system. Municipal codes provide a framework and legal requirements governing many aspects of this process.

The goal of this session is to provide a brief overview of bidding, purchasing and leasing issues. Much of the material covered today may be found in greater detail in the Purchasing Handbook published by the PA Department of Community and Economic Development, which has been distributed to you. The PA State Association of Township Supervisors also offers a longer course on this topic, if you desire additional training.

During this training module, we'll be describing:

- Goals of the purchasing process
- Purchasing options and procedures
- Contracts

- Legal requirements for government purchases and how to avoid conflicts of interest

Bear in mind that this is not a course in municipal law nor is it intended to be comprehensive enough to cover every eventuality. Your solicitor, or other legal expert, should be consulted if there is any doubt about the legal requirements of the municipality.

Goals of Government Purchasing



Instructor Note: Display Slide #3.

The goals of government purchasing are:

- Buy only what you need
- Stick to your budget
- Use competitive purchasing as much as possible



Instructor Note: Display Slide #4.

Another major goal for government officials is to ensure compliance with all laws pertaining to purchasing:

- Know the law and comply with it
- Understand that the intention of the law is to:
 - make best use of tax payer dollars
 - provide all tax paying businesses the opportunity to compete
 - eliminate any favoritism or unfair advantages
 - ensure public officials cannot personally benefit from purchases, and avoid conflicts of interest

Competition and unbiased procurement (obtaining equipment or materials) practices make sense for any organization, but government officials can be held legally accountable for any noncompliance with the laws that apply to them.

Procurement Process and Options



Instructor Note: Display Slide #5.

Do you have a written procurement process that all employees clearly understand? If not, you should.

Ask learners to raise their hands if they have a written process for making procurement decisions and placing orders. Ask how many of them know whether or not all of their employees are aware of the process.

When developing a written process or policy for making purchases, it is important to consider:

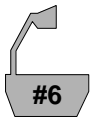
- Who decides what to buy?
- How do you identify needs versus wants?
- Do you appropriately limit the ability to spend among employees?
- Do you avoid unnecessary inventories of parts, supplies and office materials?
- Do you have a shop or office with a 'junk' problem? In this day and age of Internet purchasing and overnight delivery, do you or your employees really need to keep as many spares and supplies on hand as they do?

It takes money to spend money! Before you even send a check, resources will be spent to research products, obtain bids or quotes, evaluate suppliers, work through the approval process and place the order. The process should not be so prohibitive that in the end it costs more than the actual sticker-price savings.



Procurement Process Tips:

- Set spending limits for each employee.
- Prioritize purchases by asking employees to develop ‘needs’ and ‘wants’ lists every year before developing a new annual budget. Talk about whether any of the needs are really wants. *(Note to learners that it is OK to buy ‘wants’, as long as the needs are taken care of first.)*
- Encourage employees to find ways to reduce inventory.
- Do not require excessive paperwork over what is necessary to request or complete purchases.
- When evaluating a purchase, consider the entire cost of buying, owning, using, maintaining and ultimately disposing of the item.



Instructor Note: Display Slide #6.

Timing of purchases is important. Even if an item is included in the annual budget, schedule when purchases will be made in order to fit your cash flow constraints.

When you do make a purchase, particularly a large one, know or negotiate terms of payment before finalizing a purchase. Generally you will be able to negotiate better terms if you tell the supplier up front what you want. Avoid putting money down whenever possible, and make sure the payment terms provide enough time to process them according to your payment system. For example, if a borough council must approve all bills before they are paid, and council only meets

once per month, you may try to negotiate net 45 days payment to fit that time frame. Make sure your vendors understand that the timing of submitting bills is important.

Pay bills only when value is received. Again, avoid paying up front when possible, and do not pay the bill until the purchase has been inspected and deemed acceptable. It is easier to get a supplier to fix a problem when he is waiting on payment.

Likewise, if a purchase is delivered as promised, make sure the bills are paid on time. It is only fair to the supplier that you live up to your end of the deal. Late payments could jeopardize your relationship with valuable suppliers.

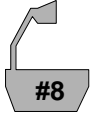


Instructor Note: *Display Slide #7.*

Once you or your employees have recognized a need, the costs of fulfilling that need must be investigated. In many cases, it will be as simple as picking up a catalog or the yellow pages to shop around for prices. When it comes to more expensive items, particularly equipment, consider that there are several options, each with advantages and disadvantages.

Procurement Options:

- Buy
- Rent
- Lease
- Lease-Purchase
- Services and Contracted Work



Instructor Note: Display Slide #8.

Buying things outright is usually the most cost effective option if it is an item that will be regularly used.

Not all communities may have the luxury of being able to afford to buy major equipment outright. When buying anything, funds must be available at time of purchase. These funds will likely come from any of the following:

- General Fund Savings or Checking Account
- Capital Reserve Account
- Loan

If a loan is obtained, be sure to consider the interest cost that you will incur.

Since you are likely purchasing for a not-for-profit entity, you should avoid paying sales tax when possible since those entities are exempt from paying it.



Instructor Note: Display Slide #9.

In some cases, renting may be the better option or the only option for procuring equipment.

Reasons to rent include:

- Satisfying a short term need
- It does not tie up funds
- Obtaining specialized equipment
- Temporarily replacing equipment that is being repaired

Note that in some cases, you may be able to rent equipment that comes with an operator. This should be considered for specialized or expensive equipment.

Also, it is important to consider who is responsible for maintaining the equipment during its use.

The major disadvantage of renting is the high cost. Also, the renter may be very picky about the condition the equipment should be returned in, and can impose extra fees. There may be extra delivery or pick-up charges if problems do occur. Always read the rental agreement carefully.



Instructor Note: Display Slide #10.

Leasing is a sensible alternative for equipment that will be used regularly and replaced frequently. Examples of equipment include computers, which can quickly become obsolete, or vehicles that are traded in every few years.

Leasing:

- Is not ownership, you only pay while using it
- Can help with cash flow management
- Usually requires maintenance responsibility
- Will not yield any equity build up
- Locks you in for a specific amount of time
- Equipment replacement controlled by length of lease



Instructor Note: Display Slide #11.

The lease-purchase:

- No up front cash payment
- Option for purchase at end of lease
- Equity at end of lease
- More expensive than straight purchase
- Can help with cash flow management

A lease-purchase arrangement is a good choice when cash is tight. The obvious advantage is that little or no money is required up front. This may also be a good choice if you are not certain whether or not you will want or need to own a piece of equipment over the long term. At the end of the lease, if you choose to buy, you will have equity in the equipment. Overall, this is more expensive than buying equipment outright. If you choose not to buy, that equity will be lost.

As with a standard lease, it may include responsibility for maintenance and a penalty for early termination. Read the contract carefully!



Instructor Note: Display Slide #12.

Of course, for some jobs, you may lack the manpower, equipment and know-how to complete them. For certain projects and tasks, the need to hire outside help will be obvious.

Consider that at times it may make sense to contract out work that your employees probably could do. Reasons include:

- Liability issues
- Lack of time
- Better use of employees time doing other tasks
- Work quality concerns



Instructor Note: Display Slide #13.

Exercise 1

For the following scenario, which is the best procurement option?

Smallville Water Authority is required to move their water tank, and will need a crane to do it. How would you obtain the crane?

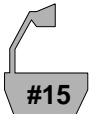
Answer: The best option would be to rent the crane, preferably with an operator, because this is a one-time project and the equipment is very expensive.

Bidding



Instructor Note: *Display Slide #14.*

- Usually, government purchases over \$10,000 require bidding
- The entire project or purchase must be less than \$10,000 to eliminate the need for competitive bidding
- Projects or purchases below \$10,000 can be bid
- Bids are formally submitted
- Once the bidding process is started, it must be followed through
- See Appendix 1 for information on municipal classifications if you are not certain, for example, whether your township is if the first-class or of the second-class since the requirements can be different



Instructor Note: *Display Slide #15. The key point here for negotiated or non-bid purchases is the “\$4000 and \$10,000” that must be adhered to by all units of local government except cities or second class counties.*

- A minimum of three written or telephone price quotations are required for all contracts between \$4,000 and \$10,000. This rule does not apply to cities or second-class counties.
- Quotations are not required for purchases under \$4,000, but may be a good idea, especially if the item or service will be ordered more than once.



Instructor Note: *Display Slide #16.*

Exceptions to the \$10,000 bidding rule:

- Maintenance, repairs, or replacement for public works (e.g. water system) provided they do not constitute new additions, extensions, or enlargements of existing facilities and equipment, for example - pumps
- Improvements, repairs, and maintenance by employees, such as line repairs or valves for hydrants
- Any work municipal employees can do themselves
- “Sole source” purchasing of equipment that is produced by only one manufacturer under patent or copyright with no competitor manufacturing the same type or class of article. An example might be analytical equipment, such as a probe for a HACH chlorine analyzer, or replacement parts for a specific turbidimeter brand.

The issue of “sole source” purchasing typically occurs with highly technical, innovative, and/or patented equipment. The system owner/manager must be diligent and research that other, similar sources of equipment do not exist.



Instructor Note: *Display Slide #17. Other Bidding Exceptions include...*

- Contracts for purchase of personal or professional services such as engineering and legal services

Many municipalities are unaware that professional services, such as hiring an engineer or an attorney, do not have to be bid. However, bidding should still be considered, if appropriate.

When these services are required, a Request For Proposals (RFP) should be developed to obtain these services. RFPs are addressed in another training module (*Training Module 4 – Dealing with Consultants, Technical Assistance Providers, Regulators, and Funding Agencies*) and more information can be obtained there or from a technical assistance provider.

- Disaster emergency purchases made under the authority of the Emergency Management Services Code, such as a gas alarm for a chlorinator to replace a failed one

In these cases, bidding is not required, although it may be advisable to do so. Bidding should be done when practical to ensure the best use of taxpayer monies.



Know the law:

- Purchases over \$10,000 require bidding
- Except for cities and second-class counties, all other counties and municipalities must obtain at least three written or telephone price quotations for all contracts between \$4,000 and \$10,000
- Second class townships are not required to obtain telephone price quotations on exceptions from the bidding process



#18 Instructor Note: *Display Slide #18. Allow the learners no more than five minutes to complete the exercise below.*

Exercise 2

Which of the following examples are exempt from the bidding process:

A first-class township needs a \$5000 replacement pump
A second-class township is adding a new \$2000 computer
A city will need \$12,000 in engineering work

Answer: All three examples are exempt.



Instructor Note: Display Slide #19.

An overview of bidding procedures follows:

- Prepare “RFB” Request for Bids documents
- Advertise
- Review proposals or bids after deadline
- “Conform” the bids, ask for clarifications if needed
- Check references
- Select and award bid



Instructor Note: Display Slide #20.

Bidding procedures that specifically apply to government purchases include:

- They must be published in a local newspaper of general publication
- Municipal codes specify minimum requirements for the number and timing of the advertisements, and for the bid opening time
- All contracts and purchases in excess of \$10,000, except those specifically exempted, must be made to the lowest responsible bidder

Municipal codes vary on the minimum requirements for the number and timing of advertisement. Be sure to check your local code or with your solicitor on this issue.



Instructor Note: *Display Slide #21.*

Bidding documents that need to be prepared include:

- Specifications
- Terms and Conditions
- Bid format and contract instructions
- Directions for Submittal



Instructor Note: *Display Slide #22.*

Specifications:

- Intended to provide a common standard against which bids will be compared and judged
- Define what is needed by providing project or equipment specifications
- Be as detailed as possible
- Any changes in the specifications need to be re-advertised



Instructor Note: *Display Slide #23. Specifications continued...*

- List the minimum requirements and tolerances
- Reference codes or industry standards that will apply
- Large manufacturers are often willing to supply standard specifications

- May wish to use one or more preferred brand names in the specifications for specific components but be sure that they are accompanied by an “or equivalent” clause



#24 Instructor Note: *Display Slide #24. Specifications continued... Following this slide discussion, it may be a good time to give the learners a break.*

Be aware of any federal, state or local strings that may be attached to grants or loans used to make purchases:

- Are there any requirements for recycled products?
- Does a certain percentage of project money need to be awarded to minority-owned businesses?
- Do wage standards apply?

Because government bidding procedures do not allow for changes to bids after they have been submitted, bidders should be provided with a deadline for submitting any questions first. Again, clarifications or changes to the specifications that result from these inquiries must be advertised so that all potential bidders are aware of them.



Specification Tips:

- The key to a successful bidding process is providing clear, identical information to all bidders, so that the bids received truly allow the comparison of “apples to apples.”



Instructor Note: Display Slide #25.

Exercise 3

Betty M. Andrew at the Smallville Water Authority has requested and received approval to purchase a new chair. Obviously, a chair is not going to exceed \$10,000, but for the purpose of this exercise let's assume it will. What do we need to consider when we are developing the specifications for the chair? List as many features as you can think of that should be included in the specifications:

_____	_____
_____	_____
_____	_____
_____	_____

They might include:

- Stain protection*
- Rolling or stationary*
- Assembled or unassembled*
- High back or low back*
- Height and lumbar support adjustment*
- Arms or no arms*
- Tilt or no tilt*
- Extra cushioning seat*
- Fabric type*
- Color*
- Warranty period*

The point of this exercise is that even for minor purchases, many details need to be considered when putting together specifications.

If Betty is not very particular about the color or arm rests, then she should avoid mentioning them, or state that the color and arm rests will not be criteria when reviewing the bids. Perhaps she would like to have it leather covered, but cloth is perfectly functional and comfortable. Is the Authority willing to pay for leather?

Try to specify only what is necessary and important in the chair. If blue is specified, but supplier “C” can only meet all of the other criteria in a burgundy chair, “C” will be denied the opportunity to bid, and Betty may miss out on the best deal.

And if Betty is not up on the latest in chair design and accessories, perhaps she should do some research. She can find the most recent consumer reports about office chairs, spend some time on the phone with a few suppliers, or visit some stores. In the end she cannot specify the exact chair that she wants, but she can get very close by describing in detail what she needs.



Instructor Note: *Display Slide #26.*

Advertising is very important to ensure you receive enough qualifying bids.

Placing an ad in a newspaper of general publication is a requirement, but in addition to that, post notices in other publications.

For example, if the Smallville Water Authority is going to purchase flow meters, there is a good chance major vendors of this type of equipment do not read the Smallville newspaper. Where would Smallville have the best chance of reaching these suppliers? Suitable publications might include trade journals, professional association newsletters, and websites that cater to that industry.

Be sure to include a statement in the advertisements reserving the right to reject all bids. Otherwise, your hands may be tied if no acceptable bids are received.



Advertising Tips:

- Find out what professional associations suppliers belong to. Do they have advertising sections in newsletters or journals?
- Advertise where suppliers advertise.
- Advertise in the classifieds of nearest major cities.
- Put notices up at trade shows.
- Offer to mail bid packages, but when possible, also post bid packages on the community/authority website to cut down on labor, materials and postage.



Instructor Note: Display Slide #27.

Comparing the bids:

- Check to make sure all bids fully meet the specifications, schedule, and terms and conditions
- Check references and document that the bidder is found to be “responsible.” Go beyond the reference list the bidder provides. Call around to find out about projects that are not on the list. Find out if they have any legal challenges pending, or have lost or settled any cases. For large suppliers, it may be possible to obtain Dunn & Bradstreet reports to check for financial viability.
- No exceptions to the bidding documents are allowed. If there are, and you are willing to accept them, you must notify losing bidders and re-advertise.



Bidding Tips:

- A “lowest responsible bidder” does not necessarily mean the bid lowest in dollars, but includes factors such as financial responsibility, integrity, efficiency, industry, experience, promptness and ability to successfully carry out the particular undertaking. Determining the lowest responsible bidder is a matter for the sound discretion of the system owner/manager. When a full investigation discloses a substantial reason for exercising discretion, the contract may be awarded to a higher bidder.



Instructor Note: *Display Slide #28.*

Bidding Procedures - Awarding Bids:

- Awards are publicly announced at the meeting where the bids are received, or at a subsequent meeting, the time and place of which must be publicly announced when the bids are received
- All public works contracts exceeding \$50,000 must be awarded within 60 days of the date of the opening

Bids must be opened at a public meeting. The bidders’ names and the amount of each bid should be announced and recorded in the meeting minutes.



Instructor Note: *Display Slide #29.*

What do you do if no satisfactory bids are received?

- Re-bid the item

And if no satisfactory bids are received after the second round of bidding?

- If no bids are received within 45 days of the 2nd advertisement, a third round of bidding can be initiated, or negotiating a purchase from the closest candidate is allowed.



Instructor Note: Display Slide #30.

Legal Challenges to Bid Awards:

- PA courts have ruled that disappointed bidders have no standing to challenge the bidding process, except whether or not the correct bidding process was followed.
- A taxpayer may challenge the bidding process if certain criteria are met.



Instructor Note: Display Slide #31.

Withdrawal of Bids:

Withdrawal of bids also occurs on occasion. Bidders and municipalities both have certain rights when bids are withdrawn.

- Bidders may withdraw their bid after the bid opening without forfeiting the security filed with the bid.

- If a bid is withdrawn, the municipality may either award the contract to the next lowest bidder or reject all bids and resubmit the project for bidding.

Once a bidder is selected, a contract must be developed for the work that has been bid.

Contracts and Bonds



Instructor Note: Display Slide #32.

Standard contract forms typically include:

- Statement of work/Specifications
- The process for making change orders
- Freight terms
- The payment schedule and interest penalties
- Holdback of payments
- Liquidated damages if the final product is late or doesn't perform to specifications
- Authority of the consultant
- Requirements of subcontracts



Instructor Note: Display Slide #33. Contract forms continued...

- Non-discrimination statement
- Lay down areas and final cleanup requirements
- Contractor liability
- Licenses, permits, and regulations
- Anti-bid rigging
- Deadlines and timelines



Contract Tips:

- Many consultants, other professionals and contractors can provide a “boilerplate” or standard form of contract. Some government funding agencies may also require the use of their own contract documents. Be sure to check with funders about their regulations prior to signing any contracts.



Instructor Note: Display Slide #34.

Bonds are a form of insurance or guarantee, and are used for several purposes. These may include bid bonds, performance bonds and payment bonds.

Understand what types of bonds should be required:

- Bid bonds accompany submitted bids as a pledge of the bidder’s good faith and will vary according to the unit of government
- Performance bonds accompany the signing of a contract and pledge the contractor to carry out the terms of the contract
- Payment bonds are intended for the protection of subcontractors and other individuals furnishing labor or materials for the contract to the prime contractor.

Bonding is a highly technical issue. For more detailed information on bonds, refer to page 21 of the Purchasing Handbook.



Instructor Note: *Display Slide #35.*

Finally, we need to address the issue of conflicts of interest. The bidding process must be completely untainted, including any conflicts of interest by all parties involved.

Conflicts of interest must be avoided. In Pennsylvania, public officials cannot have a financial interest in any supplier, except under the following circumstances:

Pertaining to all public officials

No public official or public employee can enter into a contract valued at \$500 or more with their governmental body, unless the contract is awarded through a public process.

Pertaining to counties

Elected and appointed county officials are absolutely prohibited from having any interest in a county purchase or contract.

Pertaining to cities

Elected officials must notify council of any personal interest in a contract exceeding \$300 and refrain from voting on it.

Pertaining to boroughs

Any personal interest is prohibited in contracts exceeding \$1000.

Pertaining to first-class townships

Personal interest is prohibited in contracts exceeding \$300.

Pertaining to second-class townships

Personal interest is prohibited in contracts exceeding \$500

If you come across questions regarding Ethics Law and municipal codes, these should be addressed with your solicitor.



Instructor Note: *Display Slide #36.*

There are other procurement issues PA government officials should be aware of:

The Davis-Bacon Act, as amended, requires that each contract over \$2,000 to which the federal government is a party for the construction, alteration, or repair of public buildings or public works shall contain a clause setting forth the minimum wages to be paid to various classes of laborers and mechanics employed under the contract. Under the provisions of the Act, contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The Davis-Bacon Act directs the Secretary of Labor to determine such local prevailing wage rates.

The Pennsylvania Prevailing Wage Act similarly required specifications to include a statement about prevailing minimum wage requirements for all workers involved with any projects that receive more than \$25,000 from the state.

Creating economies of scale through intergovernmental purchasing can help lower costs. Cooperative purchasing among local governments is increasingly more common. Arrangements for this include:

- Joint Purchasing
- COGs (Councils of Governments)
- Federal Surplus Property Program
- State Surplus Property Program

For more information about these options, refer to pages 32-34 in the Purchasing Handbook.

An important alternative to consider is the PA Coop Purchasing Program. You may be able to bypass the expense of the bidding process by participating in this program. See Appendix 2 for additional information on this program.



Instructor Note: *Display Slide #37. Correct answers are listed below in italics and are not included in workbooks. After learners have completed the exercise, review it and solicit answers from the learners.*

Before we summarize what has been covered, let's see what you've learned so far.

You'll find a short exercise in your workbooks. Take a few minutes to answer the questions. You can look back through your workbooks if you need to.

Bidding, Purchasing, and Leasing Exercise

1. Circle an appropriate method for controlling spending as part of a procurement process:
 - a. Allow all employees flexibility to purchase what they need
 - b. Maintain a large inventory of parts and supplies in preparation for emergency needs
 - c. *Specify spending limits for each employee*
 - d. Require several levels of approval and forms in triplicate to discourage employees from submitting purchases

2. What is the major disadvantage of a lease-purchase?
It costs more than buying.

3. Above what dollar amount must bidding be used? *\$10,000*

4. List two out of the five allowable exceptions to this bidding rule:

 - a. *Improvements, repairs, and maintenance made by the municipality that is performed by its employees*
 - b. *Any work municipal employees can do themselves*
 - c. *"Sole source" purchasing*
 - d. *Professional services*
 - e. *Disaster emergency spending*

5. Where are bid notices required to be advertised?

In a local newspaper of general publication.

6. True or false? If a supplier asks a question which prompts you to add more detail to the bid specifications, these changes need to be re-advertised. True

7. Circle the type of bond that would accompany the signing of a contract as a pledge that the contractor will carry out the terms of the contract?
 - a. Bid Bond
 - b. *Performance Bond*
 - c. Payment Bond

8. Which is true of the following statement: No public official or public employee can enter into a contract valued at \$500 or more with their governmental body, unless the contract is awarded through a public process?
 - a. Pertains to county officials
 - b. Pertains to borough councilmen
 - c. Pertains to first class townships
 - d. *Pertains to all officials in all classes of government*
 - e. Pertains to second class cities

Summary



Instructor Note: Display Slide #38.

I'd say the exercise provided a pretty good summary of what we've learned.

The key points of bidding, leasing and purchasing topics that were discussed follows:

- Government purchases must adhere to rules that do not apply to the private sector. These rules are intended to eliminate any favoritism or unfair advantages among companies competing for

government business, especially those in which public officials may have a personal or financial interest.

- Competition should be used as much as possible to ensure best use of taxpayer dollars.
- Options for purchasing equipment include buying, renting, leasing, and leasing with the option to purchase. Each has advantages and disadvantages to consider.
- There are several exemptions to mandated bidding. However, even when bidding is not mandated, it may still be a good option.
- A bidding process must be strictly adhered to when it is chosen, and bidding documents must be very clear and detailed to explain what vendors should provide.
- Prepare detailed, well written contracts for all major purchases or service agreements.
- There are agencies and professional organizations that can provide further training in procurement.

Resources and References



Instructor Note: Display Slide #39.

The following are references and resources you can use when you have procurement questions, or are ready to study governmental procurement practices in more detail.

Pennsylvania State Association of Township Supervisors, (717) 763-0930

Governor's Center for Local Government Services, (717) 720-7395.
This agency has a free publication called the "Purchasing Handbook".

PA Dept. of Environmental Protection, Technical Assistance and Outreach, (717) 772-4058, Dennis Lee

RCAP Solutions, Inc, (814) 861-6093
Don Schwartz, PA/NJ Program Manager

National Institute for Supply Management (formerly NAPM)
www.napm.org

The complete list of training modules includes:

- Module 1, Water Supply System Basics Operations
- Module 2, Responsibilities of Governing Boards
- Module 3, The Safe Drinking Water Act
- Module 4, Dealing with Consultants, Technical Assistance Providers, Regulators, and Funding Agencies
- Module 5, The Basics of Accounting and Finance for Small Water Systems
- Module 6, Business Planning for Small Water Systems
- Module 7, Budgeting and Capital Improvements Planning Overview for Small Water Systems
- Module 8, Rate Design Overview for Small Water Systems
- Module 9, Bidding, Purchasing, and Leasing
- Module 10, Project Management Overview for Small Water Systems

Appendix 1

Cities

The Act Providing for the Classification of Cities

Section 1- Purpose of classification; division into classes

For the purposes of legislation regulating their municipal affairs, the exercise of certain corporate powers, and having respect to the number, character, powers, and duties of certain officers thereof, the cities now in existence and those hereafter created in this Commonwealth shall be divided into four classes:

Those containing a population of one million or over shall constitute first class.

Those containing a population of two hundred and fifty thousand and under one million shall constitute the second class.

Those containing a population of eighty thousand and under two hundred and fifty thousand and which by ordinance elect to be a city of the second class A shall constitute the second class A.

Those containing a population under two hundred and fifty thousand and which have not elected to become a city of the second class A shall constitute the third class.

210. Counties divided into nine classes.

For the purposes of legislation and the regulation of their affairs, counties of this Commonwealth, now in existence and those hereafter created, shall be divided into nine classes as follows:

Section 1. Section 210 act of August 9, 1955 known as "The County Code" amended Feb 5, 1982, is amended to read:

Section 210. Counties Divided into Nine Classes- For the purposes of legislation and their regulation of their affairs, counties of this Commonwealth, now in existence and those hereafter created, shall be divided into nice classes as follows:

First Class Counties, those having a population of 1,500,000 inhabitants and over.

Second Class Counties, those having a population of 800,000 and more but less than 1,500,000 inhabitants.

Second Class A Counties, those having a population of 500,000 and more but less than 800,000 inhabitants.

Third Class Counties, those having a population of 225,000 and more but less than 500,000 inhabitants.

Fourth Class Counties, those having a population of 150,000 and more but less than 225,000 inhabitants.

Fifth Class Counties, those having a population of 95,000 and more but less than 150,000 inhabitants.

Sixth Class Counties, those having a population of 45,000 and more but less than 95,000 inhabitants and those having a population of 35,000 and more but less than 45,000 inhabitants which by ordinance or resolution of the Board of County Commissioners elect to be a county of the sixth class.

Seventh Class Counties, those having a population of 20,000 and more but less than 35,000 inhabitants and those having a population of 35,000 and more but less than 45,000 inhabitants which have not elected to be a county of the sixth class.

Eighth Class Counties, those having a population of less than 20,000.

TOWNSHIPS

Classification of Townships.-The townships now in existence and those to be created after this act takes effect are divided into two classes, townships of the first class and townships of the second class. Townships of the first class are those having a population of at least three hundred inhabitants to the square mile, which are now established as townships of the first class, or which may be created townships of the first class under laws relating to townships of the first class. All townships that are not townships of the first class or home rule townships are townships of the second class. A change from one class to the other shall be made only under this act or the laws relating to townships of the first class.

Appendix 2

Coop Purchasing Program

Section 1902 of Act 57 of May 15, 1998, as amended by Act 142 of December 3, 2002, 62 Pa.C.S. Section 1902, authorizes local public procurement units to participate in those contracts for supplies, services, or construction entered into by the Department of General Services (DGS) that are made available to local public procurements units. A "local public procurement unit" is defined as:

- any political subdivision;
- any public authority;
- any tax exempt, nonprofit educational or public health institution or organization;
- any nonprofit fire company, nonprofit rescue company or nonprofit ambulance company;
- and to the extent provided by law, any other entity, including a council of governments or an area government that expends public funds for the procurement of supplies, services and construction.

Participation in this program is free of charge, but a resolution MUST be adopted by the eligible entity and filed with the Department of General Services before purchasing off state contracts.

The Bureau of Purchases is responsible for purchasing or contracting for equipment and supplies for the Commonwealth. The Bureau is the purchasing coordinator and exercises control over the acquisition of supplies and services, and awards contracts to vendors.

A direct link to the program including sample membership resolution, contract list, vendor list and available vehicle list is located at:

<http://www.dgs.state.pa.us/procurement/cwp/view.asp?a=3&q=119619&procurementNav=1>

Please direct any correspondence to:

Department of General Services
Cooperative Purchasing
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Telephone: 717-787-1105 (voice)
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