

Checklist And Guidelines For Evaluating Local Procurement Systems

opportunities for improvement
in local government purchasing



United States General Accounting Office

Part 2

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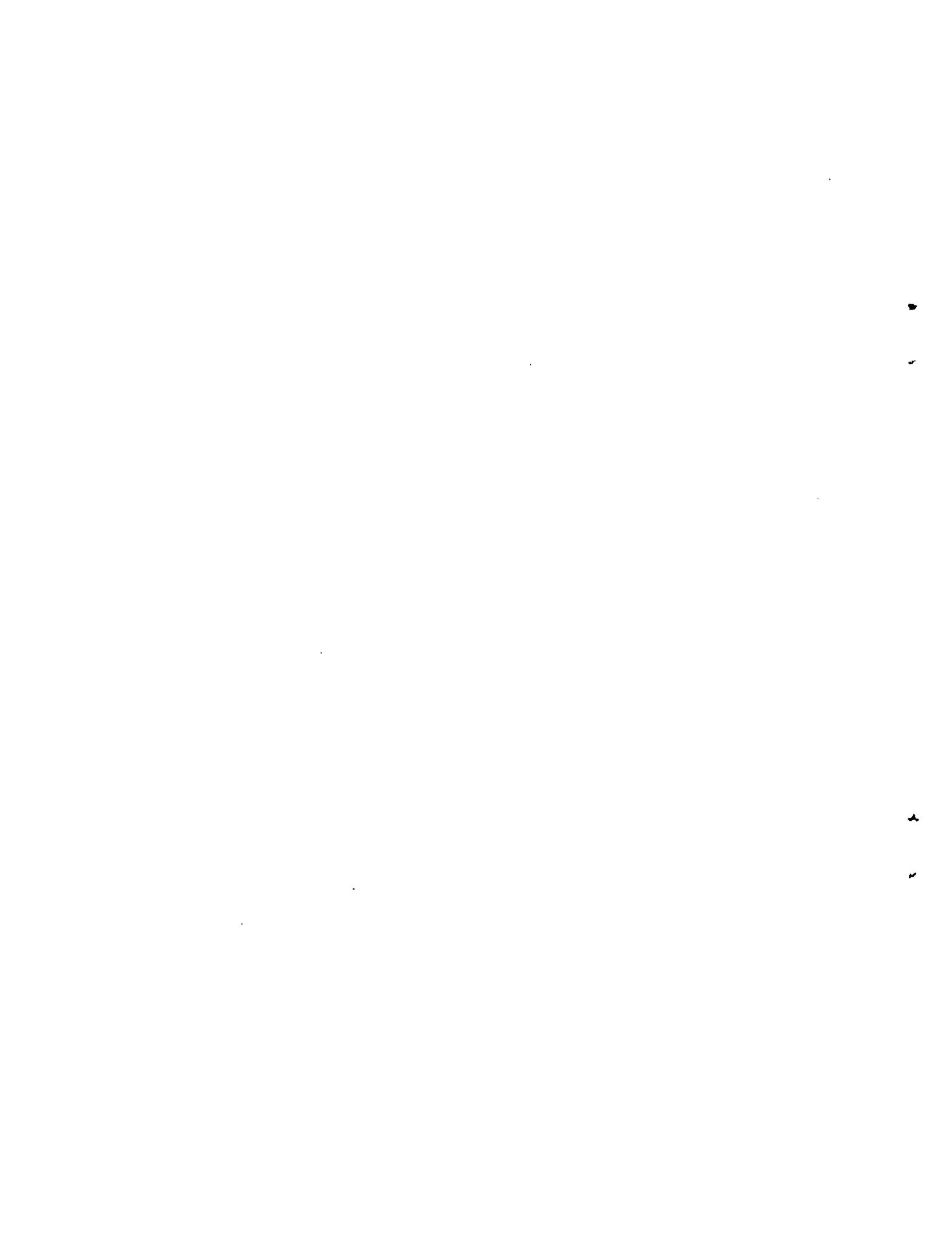
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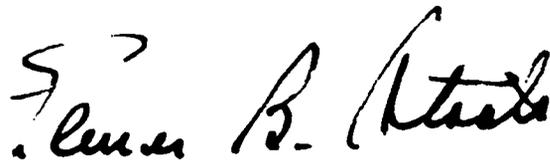
FOREWORD

Studies by our Office disclosed a need to give State and local governments guidance in evaluating and improving their purchasing systems. We have responded to this need by developing a checklist and an audit guide.

The checklist and the audit guide were developed from a study of the purchasing systems in five local governments. We are publishing them separately to facilitate their use as an independent evaluation tool.

Throughout our study, we received the cooperation and assistance of many officials of local government and the procurement community. Their contribution to our work is greatly appreciated. A letter of endorsement from the National Institute of Governmental Purchasing follows this foreword.

The guide and checklist are practical and flexible and can be used together or separately. We believe that significant system improvements, cost savings, and increased public confidence in government can result from their use.



Comptroller General
of the United States

OCT 20 1980

ACQUISITIONS



NATIONAL INSTITUTE OF GOVERNMENTAL PURCHASING INCORPORATED

1001 CONNECTICUT AVENUE • WASHINGTON, D. C. 20036 • (202) 331-1357

LEWIS E. SPANGLER Executive Vice President

February 24, 1978

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*Past President

Hon. Elmer B. Staats
Comptroller General of the United States
General Accounting Office
441 G Street, N. W.
Washington, D. C. 20548

Dear Mr. Staats:

We appreciate very much the opportunity to participate with you and the members of your staff in your recent review of the purchasing systems of one county government and four city governments. We also appreciate your giving us the opportunity to participate in the development of the checklist and review guide which emanated from that review. We truly believe that the report of the study and the documents which grew out of the study itself will prove to be welcome aids to the administrators of the State and local governments.

Since its founding in 1944, the National Institute of Governmental Purchasing, Inc. (NIGP) has supported all efforts which we believe would assist in elevating the standards of public purchasing organizations. We have sought to facilitate the interchange of professional information and ideas, and we have strived to further professionalize the field by offering training courses and a certification program.

On behalf of NIGP, I urge all State and local administrators to carefully review this document, giving particular attention to the checklist for identifying weaknesses in purchasing systems, and to the companion review guide for assessing the consequences of the weaknesses identified. I stress that this checklist and guide should not be used as a means of harrassing people, but rather should be used as a tool for more effective management.



THIRTY-THIRD ANNUAL CONFERENCE AND PRODUCTS EXPOSITION — 'MORE VALUE FOR THE TAX DOLLAR'

SHERATON CENTRE, TORONTO, ONTARIO, CANADA, OCTOBER 14-18, 1978

Founded in 1944

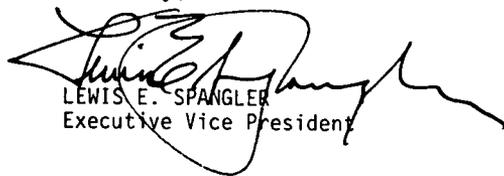
An international professional society dedicated to raising the standards of public purchasing and materials management.

Hon. Elmer B. Staats
February 24, 1978
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Although the document contains language and concepts that may be new to State and local governments, it can play an important role in the quest for greater professionalism in State and local government purchasing. We must keep our minds open to information that might be of assistance in upgrading the effectiveness, efficiency and economy of our entities' purchasing operations.

Now, as always, we must continue to strive toward our goal of "MORE VALUE FOR THE TAX DOLLAR."

Sincerely,



LEWIS E. SPANGLER
Executive Vice President

LES:SBG/lar

GAO note: Since receiving this letter from the NIGP, we added some "Basic Procurement Principles" as appendix II to part II of our report. NIGP has raised some concern about the specificity of some of these principles. While we believe the principles are sound, they are intended to be used as guidance and are not mandatory. They may have to be adjusted to fit the unique characteristics of a given local government.

PROCUREMENT CHECKLIST

An Aid to State and Local
Governments In the Evaluation of
The Purchasing Function

This checklist may be used
to identify areas of weakness
in the governmental purchasing
system. It should be answered
by knowledgeable purchasing
officials.

CHECKLIST FOR EVALUATING LOCAL GOVERNMENT PROCUREMENT
OF SUPPLIES, MATERIALS, EQUIPMENT & SERVICES

<u>Topics & Questions</u>	<u>Yes</u>	<u>No</u>	<u>Comments</u> (Explanation for "no" answers, further data on "yes" answers)
I. AUTHORITY & RESPONSIBILITY			
A. Is there statutory or ordinance authority for placing purchasing authority with one official or department?	—	—	
1. Does the authorization extend to federally funded programs?	—	—	
2. Does the authorization prohibit delegation of portions of the authority to other units in the government?	—	—	
3. If not, what delegations of authority are currently in effect? (List in <u>Comments</u>)	—	—	
B. Is there a written procurement statute, ordinance, or policy statement--	—	—	
1. locating purchasing responsibility in a special position within the government independent of major using activities?	—	—	
2. describing the overall purchasing goals & objectives?	—	—	
3. specifying the authority of the purchasing department in all aspects of acquisition, contract administration, quality assurance, and surplus property transfer and disposal?	—	—	
4. specifically setting out all aspects of purchasing delegated to other departments, and the manner in which such activities are to be monitored & controlled by purchasing?	—	—	

<u>Topics & Questions</u>	<u>Yes</u>	<u>No</u>	<u>Comments</u>
			(Explanation for "no" answers, further data on "yes" answers)
5. providing that purchasing may promulgate implementing regulations?	—	—	
6. covering a code or standard of conduct governing the performance of purchasing officials and personnel as well as contractors or their agents?	—	—	
C. Do the statutes, ordinances, or regulations prescribe dollar limits for each of the varying degrees of formality used in soliciting bids?	—	—	
1. If so, list source, limits, and degree of formality in comments.	—	—	
D. Does purchasing have written policies & guidelines defining what factors are to be considered in determining the responsiveness of a bid as well as the contractor's capacity to perform?	—	—	
1. Are these factors included in the invitation for bids so that the potential bidder knows what is required?	—	—	
E. Does purchasing have written policies & guidelines governing the use in the bid specification of such clauses as--			
1. Option for additional units above the specific quantity?	—	—	
2. Alternate prices, with & without trade-ins?	—	—	
3. Conditions under which all bids may be rejected in whole or in part?	—	—	

<u>Topics & Questions</u>			<u>Comments</u>
	<u>Yes</u>	<u>No</u>	(Explanation for "no" answers, further data on "yes" answers)
II. PLANNING & SCHEDULING ACQUISITIONS			
A. Is the purchasing department included in all top-level planning affecting future procurement practices or needs?	—	—	
B. Does purchasing have written instructions governing itself or using departments and agencies--			
1. to forecast future item needs?	—	—	
2. to provide past usage data?	—	—	
C. Is the government's financial management information system structured to accumulate such data as quantities purchased, ordering frequencies, vendor performance, and unit prices per transaction?	—	—	
D. Does the purchasing department use market research to secure economic information which may affect purchasing, such as--			
1. current market conditions of items bought on long-term contracts?	—	—	
2. changes in local program needs?	—	—	
3. technical progress affecting supply or equipment production?	—	—	
4. seasonal requirements or fluctuating markets?	—	—	
5. transportation costs?	—	—	
E. Are value analysis appraisals made annually for a stipulated percentage of items being procured?	—	—	

<u>Topics & Questions</u>			<u>Comments</u>
	<u>Yes</u>	<u>No</u>	(Explanation for "no" answers, further data on "yes" answers)
1. If so, which of the following considerations are covered by the appraisals--			
a. new sources of supply?	—	—	
b. standardization of items?	—	—	
c. identification of new and better products?	—	—	
d. identification of alternative products, including aspects of price and quality?	—	—	
e. storing and handling, vendor stocking costs?	—	—	
f. other? Specify _____			
F. Does purchasing review at least annually past usage and requirement forecasts to assess the potential for consolidating and/or reducing purchase requirements?	—	—	
G. Does purchasing have an ongoing program to assess the appropriateness of the manner used to satisfy requirements?	—	—	
1. Does the program involve the use of questionnaires or discussions with other government units as well as prospective suppliers?	—	—	
H. Does purchasing use for satisfying requirements contracting methods such as--			
a. definite quantity, definite period?	—	—	
b. minimum (guarantee) quantity, definite period?	—	—	

<u>Topics & Questions</u>	<u>Comments</u> (Explanation for "no" answers, further data on "yes" answers)	
	<u>Yes</u>	<u>No</u>
c. estimated (indefinite) quantity, definite period?	—	—
d. estimated (indefinite) quantity, indefinite period (until canceled by either party)?	—	—
1. Has the decision to use a particular form of contracting for satisfying specific requirements been reassessed during the last year?	—	—
I. Does purchasing make lease v. purchase comparisons in acquiring equipment, such as vehicles?	—	—
J. Does purchasing evaluate whether it is more economical to make the item or perform the service in-house v. contracting out?	—	—
K. Does purchasing--		
1. monitor frequency & volume of purchases of the same or similar items to see whether a term contract might be cheaper?	—	—
2. monitor different departments' purchase requests for the same or similar items to see whether consolidation may achieve economies?	—	—
3. have written procedures to govern how such potential is to be identified?	—	—
4. require that requisitions or purchase requests be signed by responsible department officials?	—	—

<u>Topics & Questions</u>	<u>Yes</u>	<u>No</u>	<u>Comments</u> (Explanation for "no" answers, further data on "yes" answers)
III. COMPETITION			
A. Does a statute, ordinance, or regulation require purchasing to use competitive procedures for acquiring supplies, materials, equipment, and services other than professional?	—	—	
1. Does purchasing--			
a. participate in contracting for professional services?	—	—	
b. prescribe procedures followed in such contracting?	—	—	
c. review the procurements made for compliance with such procedures?	—	—	
B. In securing formal bids for contract purchases, does purchasing--			
1. prepare or have the authority for review & approval of bid invitations?	—	—	
2. maintain & update a list of prospective bidders?	—	—	
3. have written criteria governing the addition, deletion, and reinstatement of bidders and vendors, and the potential of bidders to perform under the terms and conditions of the proposed procurement?	—	—	
4. have written procedures governing the receipt, control, opening & evaluation of bids?	—	—	
5. have authority to determine which bids have the terms & conditions of the invitation?	—	—	

<u>Topics & Questions</u>			<u>Comments</u>
	<u>Yes</u>	<u>No</u>	(Explanation for "no" answers, further data on "yes" answers)
6. maintain a record (such as a bid history record) to help purchasing identify collusive bidding practices?	—	—	
C. Is there a provision governing procurement when formal bidding is not required?	—	—	
1. Are written records required for all informal negotiations except imprest fund purchases?	—	—	
2. Is the number of vendors required to be contacted under various conditions specified?	—	—	
D. Is there a policy stipulating the conditions under which blanket purchase orders may be used?	—	—	
E. Is there a provision defining the special procedures to be followed when competitive procedures are not used—			
1. in emergencies?	—	—	
2. where there is no responsible competition, or one source; where patents or proprietary rights exist; or where standardization/interchangeability is advantageous?	—	—	
3. when items are to be acquired solely for testing?	—	—	
F. Are there statutes, regulations, or policies affecting open competition, such as "local purchase" requirements?	—	—	
G. Is there a formal program for identifying suppliers not previously solicited?	—	—	

<u>Topics & Questions</u>	<u>Comments</u> (Explanation for "no" answers, further data on "yes" answers)	
	<u>Yes</u>	<u>No</u>
1. Is there a requirement to document the results of the program periodically?	—	—
IV. STANDARDIZATION & SPECIFICATIONS		
A. Does purchasing standardize items commonly used by two or more departments or agencies?	—	—
1. Is there a central stockroom from which all departments & agencies are required to draw supplies & equipment?	—	—
2. Is there a catalog of items available from the stockroom?	—	—
B. Does purchasing require written justification for item acquisition outside the stockroom standard?	—	—
C. Where specifications are prepared for special items or services by departments & agencies, does purchasing have the power to review, modify, and approve them?	—	—
1. Are brand names avoided or expressly stated to be only descriptive (identifying salient features) and not restrictive?	—	—
2. Are performance specifications rather than prescriptive specifications used?	—	—
D. Does purchasing consider using commercial standards, or specifications developed by the Federal, State, or other local government units and found acceptable, in lieu of developing its own specifications?	—	—

<u>Topics & Questions</u>	<u>Yes</u>	<u>No</u>	<u>Comments</u> (Explanation for "no" answers, further data on "yes" answers)
E. Does purchasing use qualified product lists or lists of acceptable brands as an alternative to developing its own specifications?	—	—	
1. Are there written criteria covering procedures for placing and removing products and brands from these lists?	—	—	
V. INSPECTION & TESTING			
A. Does purchasing have the authority to establish and oversee a program of inspection of deliveries to insure that items delivered meet specifications?	—	—	
B. Are there written instructions governing receipt & inspection of deliveries?	—	—	
C. Does purchasing routinely monitor the inspection program?	—	—	
D. Has there been a determination as to:			
1. The items to be tested to determine compliance with specifications?	—	—	
2. The frequency of the testing?	—	—	
3. Those who should do the testing?	—	—	
E. Are there written procedures covering the handling of user and/or contractor complaints?	—	—	
VI. PROPERTY MANAGEMENT			
A. Does purchasing participate in the inventory procedures of the government to insure that--			

<u>Topics & Questions</u>			<u>Comments</u>
	<u>Yes</u>	<u>No</u>	(Explanation for "no" answers, further data on "yes" answers)
1. expendable property is properly controlled?	—	—	
2. nonexpendable property is			
a. identified?	—	—	
b. assigned for accountability to specific units of government?	—	—	
3. periodic inventories of expendable and nonexpendable property are taken?	—	—	
B. Does purchasing secure a copy of the inventory documents for all units of government so that it may identify equipment which may be available to reduce or eliminate purchase of additional items?	—	—	
C. Is purchasing assigned the authority to supervise the surplus and scrap programs?	—	—	
1. Are spot checks made and records kept of equipment utilization?	—	—	
D. Does purchasing have written procedures for—			
1. timely identification and reporting of surplus & scrap items to purchasing?	—	—	
2. notifying other departments & agencies of available usable surplus?	—	—	
3. disposing of unneeded or unusable items?	—	—	

<u>Topics & Questions</u>	<u>Comments</u> (Explanation for "no" answers, further data on "yes" answers)	
	<u>Yes</u>	<u>No</u>
VII. PROFESSIONAL DEVELOPMENT		
A. Does the local government encourage the purchasing officials and technical staffs--		
1. to keep current with procurement trends (e. g., affiliate with professional purchasing associations)?	---	---
2. to secure formal training and education as a supplement to their job-acquired knowledge?	---	---
B. Does the local government provide support for (1) & (2) above by providing funding?	---	---
VIII. COOPERATIVE PURCHASING		
A. If there are no statutory prohibitions, does purchasing--		
1. enter into joint or cooperative purchasing agreements with other local government?	---	---
2. purchase from State contracts?	---	---
3. have a program for continually searching for ways to increase potential savings through increased use of cooperative purchasing arrangements?	---	---
B. Where cooperative purchasing is used, does purchasing have a program for evaluating any additional costs involved to determine whether the total costs may be higher than costs of buying separately?	---	---

<u>Topics & Questions</u>	<u>Comments</u>	
	<u>Yes</u>	<u>No</u>
IX. AUDIT & EVALUATION		
A. Is there an internal or external audit of the procurement system to evaluate the effectiveness or economy with which it is making purchases?	—	—
B. Are annual performance goals, both quantitative and qualitative, established for the purchasing unit?	—	—
1. Does purchasing report periodically on its performance?	—	—
2. Is management required to measure the purchasing organization's performance?	—	—
a. If so, is this periodically accomplished and documented?	—	—
3. Which of the following indices are maintained or otherwise available to monitor purchasing activities--		
a. purchasing cost (includes cost of central stores operation) per \$1,000 of procurement?	—	—
b. purchasing cost per purchase order issued?	—	—
c. cost of central stores per \$1,000 of stores procurement?	—	—
d. user complaints?	—	—
e. out-of-stock condition?	—	—
f. dollar value of inventory?	—	—
g. emergency purchases?	—	—
h. other? Specify _____	—	—

AUDIT GUIDE

An Aid To State and Local
Governments In The Evaluation Of
The Purchasing Function

This audit guide may be used
in conjunction with the
procurement checklist to
review in detail all or part
of the purchasing system.

Guidelines for Auditing Local Governments' Purchasing Functions

Introduction

The primary objective of public purchasing is to economically acquire needed goods and services of acceptable quality and to provide them to the requisitioning unit when required. Traditional auditing views purchasing's role as service oriented; however, we view purchasing as a management activity which helps government officials carry out their responsibilities. The audit guide addresses local government purchasing programs' efficiency, economy, and effectiveness, and activities directed at meeting these objectives.

Special Instructions

Before applying the audit guide, financial, legal, and administrative information on the government's purchasing system should be gathered. This includes financial statements, governing statutes, codes, regulations, manuals, organization charts, etc. Next, the auditor and purchasing official(s) should complete the companion checklist. Depending on checklist responses and the audit's scope and purpose, the auditor can then determine to use the audit guide as a

1. complete purchasing system assessment with the checklist serving as correlative support for audit findings;
2. detailed inquiry into weaknesses identified by the checklist, and as a selective test of the remaining areas to assure credibility of other checklist responses;
3. focus on those purchasing activities having the greatest impact on the program or activity of primary concern to the auditor; or
4. detailed inquiry into weaknesses identified by the checklist where it is necessary to demonstrate their impact or effect.

After the approach is decided, a cross section of items purchased during the latest year should be selected for a "walk through" of the procurement process. The purchases should be sampled randomly. This walk through will facilitate detailed testing by enabling several audit steps to be accomplished at one time and by providing a more thorough understanding of the procurement process. Beginning with

the determination-of-needs process and finishing at the receipt of the sampled items, the walk through will basically entail:

1. Interviewing the individuals involved with the purchase of the sampled items.
2. Reviewing all related documents, such as the requisition, purchase order, invoice, etc.
3. Documenting how each purchase was effected.

Appendix II presents some basic procurement principles which we believe apply to local government purchasing and which should clarify the purchasing principles and concepts discussed in the guide. A comprehensive treatment of purchasing principles can be found in State and Local Government Purchasing, published by the Council of State Governments in March 1975.

DETAILED AUDIT STEPS

I. Procurement procedures, policies, and practices

A. Authority and responsibility

To achieve maximum performance, personnel operating the procurement system must have the authority and responsibility to operate in the most efficient, cost-effective way, considering the government as a whole. Generally, federally funded activities at the State and local level should purchase through the centralized system.

1. Purpose: To determine the degree purchasing authority and responsibility are centralized

Steps: For each walk-through item, determine if the related purchase was effected:

- a. in line with established purchasing authority responsibility or
- b. outside the purchasing unit's delegated and nondelegated (but logical or appropriate) authority and responsibility.

These two determinations can be accomplished by:

- (1) walking through the procurement process for each purchase starting with the determination-of-needs process; or
 - (2) interviewing the buyers who handled the purchases, and examining and reviewing related purchasing documents such as the purchase order, requisition, etc.
- c. If purchases were completed outside established procedures, obtain an explanation from the individuals involved. Unresolvable issues, which have legal implications, should be brought to the attention of appropriate officials.
 - d. Weaknesses identified in the steps above can aggravate other operating inefficiencies. As a result, audit steps to demonstrate the effect or impact of these weaknesses are addressed in other sections (e.g., standardization, consolidation, etc.) of this guide.
2. Purpose: To determine the scope and nature of the purchasing unit's responsibilities.

Steps:

- a. Purchasing's responsibilities should extend beyond the service-oriented role of writing purchase orders and processing forms; they should include a variety of management-oriented functions. Through discussions with purchasing personnel, the walk-through process or other auditing techniques determine the nature of and extent to which the purchasing unit participates in the following functions:
 - (1) planning and scheduling acquisitions, including
 - consolidating departmental requirements and
 - applying value analysis;
 - (2) insuring that procurement actions are documented and justified;
 - (3) standardizing common-use items;
 - (4) establishing specifications;

- (5) inspection and testing;
 - (6) inventory and property management, including disposing of surplus property;
 - (7) professional development;
 - (8) establishing goals, targets, etc.;
 - (9) contract administration;
 - (10) determining factors to gage the responsiveness of bids;
 - (11) monitoring and controlling any purchasing functions delegated to other departments; and
 - (12) establishing and implementing purchasing-related regulations.
- b. If purchasing's responsibilities do not include these management-oriented functions:
- (1) Discuss with purchasing and using departments' officials:
 - What units perform these functions?
 - What role might purchasing be capable of performing to achieve cost-effective procurement?
 - (2) Compare the results of your inquiries (step 1, above) with governing statutes, ordinances, manuals, etc. If purchasing functions do not comply with governing statutes, regulations, etc., obtain an explanation from purchasing personnel and officials.

Note: Weaknesses are more likely to occur in areas in which purchasing's responsibilities lack management-oriented functions. In such cases, the following sections of this guide should be given careful attention.

B. Planning and Scheduling Acquisitions

Goods and services should not be purchased only when needed; acquisitions should be systematically planned and scheduled.

Successful planning and scheduling should include the concepts of consolidation and value analysis. 1/

1. Purpose: To determine whether requirements are effectively being consolidated. There may be problems in this area if prior audit steps or the checklist indicate purchasing authority is decentralized.

Steps:

- a. Identify the common-use items (i.e., items used by more than one department, such as writing pens, paper supplies, etc.) from the group of walk-through items. If the walk-through selection doesn't yield enough of these type items for this step, another random selection may be required. For the common-use items determine whether any of the following conditions exist.
 - (1) Common items are purchased separately for each using department.
 - (2) Purchases are made for varying quantities throughout the year, and higher prices are associated with smaller quantities.
2. Purpose: To determine if consolidation is effectively performed.
 - a. Effective consolidation normally requires sufficient and accurate information to plan the acquisition. As a result, determine from responsible buyers or purchasing records whether the following types of information are available and used to consolidate requirements:
 - (1) quantities purchased previously,
 - (2) ordering frequency,
 - (3) vendor performance,

1/For elaboration, see p. 6 of part I.

- (4) unit prices for transaction,
- (5) administrative cost of consolidating requirements,
- (6) number of using departments, and
- (7) user information from which future needs are forecasted.

Determine whether this information is current, accurate, and periodically reviewed. If such information is not used or not available, ask buyers whether such information would be useful.

- b. Where consolidation is lacking or ineffectively performed, discuss with purchasing officials whether they have adequate authority and have been delegated the responsibility to consolidate common-use items in the most cost-effective manner or other explanation for the existing conditions.
 - c. Where purchases of common items aren't consolidated or are consolidated ineffectively, determine any resulting excess costs. For example, for a common item purchased separately for individual departments at varying quantities and prices, estimate the additional price paid for the unconsolidated purchases for the entire year's requirement. Another alternative might be to compare prices of unconsolidated purchases with prices being paid by neighboring governments for comparable items purchased in larger quantities.
3. Purpose: To determine the nature and extent value analysis is used in the procurement of goods and services.

Steps:

- a. If value analysis is used by the purchasing activity, determine what criteria are used to apply the technique to a procurement.
- b. Select, if possible, for the walk-through items specially selected high-dollar value/volume items to which value analysis was applied. Assess the quality of the value analysis made, considering

- (1) market and economic conditions;
 - (2) probable changes in local programs which would affect future requirements;
 - (3) technical progress affecting supply sources;
 - (4) transportation costs;
 - (5) alternative sources of supply;
 - (6) standardization of items;
 - (7) identification of alternative products;
 - (8) maintenance and operating costs during the life of the item; and
 - (9) storage and handling v. understocking costs.
- c. If value analysis is not used, try to identify some items or services to which the technique could be easily applied. The items or services should be of relatively high value where the technique would be more likely to show large savings.
- d. Attempt to apply value analysis to the identified items or services. This should be done at least on an elementary basis, incorporating as many of the elements discussed in step b. above as possible. The auditor might also contact neighboring governments to obtain information on items comparable to those being tested. Document instances where the neighboring government is using less expensive but comparable (i.e., in terms of acceptable quality) items. The results of your value analysis and comparisons should be discussed with purchasing and using department officials.

4. Purpose: To determine whether purchases are effectively scheduled.

Steps:

- a. Discuss with purchasing officials how goods and services are scheduled for acquisition.
- b. Responses to your inquiries should be compared with governing statutes, regulations, etc.

- c. For the walk-through items, discuss with the applicable buyer how, or if, the purchase was scheduled.
- (1) Buyer responses should be compared with steps a. and b. above.
 - (2) If scheduling is verifiable, determine whether actual purchases match scheduled purchases.
 - (3) Determine whether each related purchase is in line with the using department's consumption patterns, considering stocking capacities and seasonal factors.
 - (4) Also determine whether the buyers have enough leadtime to adequately schedule the acquisition. Sufficient leadtime is particularly important for those walk-through items subject to seasonal demand or seasonal availability. Inquiries should also include whether purchasing has sufficient information on using departments' requirements from which to schedule.

C. Competition

1. Purpose: To determine the extent purchasing statutes, ordinances, etc., foster competition.

Steps:

- a. Examine and review purchasing statutes, ordinances, etc., to determine if the following provisions are included.
 - (1) Purchases exceeding a specified dollar limit are based on advertised competitive bids. For purchases lower than this dollar limit, an informal bidding or quotation system should be used.
 - (2) Conditions where competitive negotiation is to be used are specified.
 - (3) Conditions where competitive procedures may be waived are specified.

- (4) Final review and approval for invitations for bids rest with the central purchasing unit.
 - (5) Procedures and conditions are specifically spelled out for the central purchasing unit to receive, control, open, and evaluate bids.
 - (6) Procedures for obtaining professional services are specified.
 - (7) Criteria and procedures are specified for adding, deleting, and reinstating vendors to the bidders' list.
 - (8) The minimum number of bidders to be contacted for each type of solicitation is specified.
 - (9) Purchase documentation must show the events of requisition, ordering, and payment.
 - (10) If any items are purchased from a sole source, determine and evaluate the procedures followed to assure that a reasonable price is negotiated.
 - (11) All procedures, policies, conditions, and criteria discussed above should be available for public inspection.
- b. In addition to checking for these provisions, discuss with purchasing officials whether there are any aspects or provisions to governing statutes which inhibit or impede the maximization of competition. For example, determine if there are any "buy local" policies which prevent obtaining goods or services outside a stated geographic area.
- c. Determine whether additional costs are incurred because of restrictive provisions, or governing statutes lack many of the provisions discussed in step a. For example, if there is a "buy local" policy, attempt to determine prices for any of the walk-through items that are available outside the geographic area (e.g., vendors supplying neighboring governments with comparable requirements) where procurement is restricted.

If prices actually paid are significantly higher than available prices, estimate the annual costs involved and discuss the apparent desirability of continuing such restrictive practices.

2. Purpose: To determine the adequacy of the competitive bidding process.

Steps:

- a. For the walk-through items purchased under competitive bid procedures, discuss with the related buyers and review applicable case files to determine whether the following procedures were included.
- (1) Each purchase is advertised in a widely circulated publication, such as a newspaper.
 - (2) A sufficient number of vendors on the bidders' list for each item is solicited to provide good competition.
 - (3) The bidders' list used is current and periodically updated and provides procedures for addition of potential bidders.
 - (4) Bid history records are maintained which would assist purchasing to identify collusive bidding practices.
 - (5) Procedural specifications of the invitations are as free from restrictiveness as are the technical specifications.
- b. Determine whether actual practices are in line with governing statutes, ordinances, etc. Exceptions to established statutes and regulations should be discussed with the individuals involved. Unresolvable issues, which have legal implications, should be brought to the attention of appropriate officials.
- c. Determine the effect of any weaknesses identified in step a. above. For example, if a bidder's list is not maintained or not kept current, determine for any of the applicable walk-through items whether there are other vendors who were

not solicited, but are capable of providing the item. This could be accomplished by contacting neighboring governments and determining their suppliers for comparable items. The results of this inquiry should be brought to the attention of purchasing officials. Although it can't be implied that lower prices could have been obtained had the other vendors been solicited, it should be emphasized that broadening the scope of potential vendors normally enhances competition and can lead to lower prices.

3. Purpose: To determine whether practices in waiving competition are consistent with governing statutes, ordinances, etc.

Steps:

- a. Select several items where competitive procedures are waived. Include at least one emergency and one single-source purchase.
 - b. Discuss these procedures with the applicable buyers and determine whether the surrounding conditions and circumstances are consistent with governing statutes and regulations.
 - c. Exceptions to established statutes and regulations should be discussed with the individuals involved. Unresolved issues, which have legal implications, should be brought to the attention of appropriate officials.
4. Purpose: To determine the adequacy of competitive negotiation procedures.

Steps:

- a. For the walk-through items purchased under competitive negotiation, discuss and review applicable files to determine whether the following procedures are conducted.
 - (1) Public notice of the product or service needed is made.
 - (2) Request for proposal, or equivalent, is used in lieu of an invitation for bid.

- (3) Besides the price, factors evaluated include managerial and technical capability, and an approach to meeting performance requirements.
 - (4) Negotiations conducted are documented.
 - (5) List of qualified vendors is maintained and used.
- b. In addition to checking for these procedures, determine whether actual procedures are consistent with governing statutes, ordinances, etc. Exceptions to established statutes and regulations should be discussed with the individual involved. Unresolvable issues, which have legal implications, should be brought to the attention of appropriate officials.
 - c. Determine the effect of any weaknesses in maximizing competition. For example, if price is the only factor considered during the negotiation process, determine from applicable officials or case files whether the purchase will be altered if other factors, such as those discussed in step a. (3), are evaluated. If another item would be purchased, attempt to assess any differences in performance as well as price.
5. Purpose: To determine the extent to which purchasing participates in obtaining professional services.

Steps:

- a. Walk through the procurement process for several professional services (e.g., architectural, research, engineering, auditing) obtained for the governmental unit.
- b. Determine whether procedures for obtaining these services were in line with governing statutes, regulations, etc. Any inconsistencies should be discussed with the department officials involved. Unresolvable issues, which have legal implications, should be brought to the attention of appropriate officials.
- c. If purchasing is not effectively involved in obtaining professional services, determine the effect. For example, identify areas where

purchasing could have an impact on improving the acquisition of professional services. These may include negotiation techniques, identifying qualified vendors, evaluating proposals, etc.

D. Standardization and Specifications

1. Purpose: To determine whether the central purchasing authority standardizes commonly used items.

Steps:

- a. Generate a random sample of purchase orders or invoices stratified by several types of end-use requirement (such as typing paper, writing pens, typewriters, etc.).
 - b. By reviewing the purchase orders or invoices, determine whether there are many items with differing characteristics being purchased to satisfy a single end use.
 - c. If there are many of these items, obtain an explanation from the applicable using department and purchasing officials as to the necessity of each unique attribute.
 - d. In addition, determine if a less expensive item, but one which meets the minimum quality level, could be substituted for the different items. If there is such an item, estimate the amount which would be saved if the requirement is standardized by calculating the difference in prices between the higher and lower cost items for a year.
 - e. If there are weaknesses in this area, discuss with purchasing officials whether they have adequate authority and are delegated the responsibility to standardize common items. Also, ask if there are any obstacles, legal or otherwise, preventing them from effectively completing the function.
2. Purpose: To determine whether the purchasing unit effectively uses a central stockroom.

Steps:

- a. If a central stockroom is used, obtain documentation showing that:

- (1) Purchasing statutes or regulations require all departments and agencies to draw certain supplies and equipment from the central stockroom.
- (2) Using departments and agencies have access to a catalog of items available from the stockroom.
- (3) Purchasing statutes or regulations require written justification for item acquisition outside the stockroom standard.
- (4) Items within the stockroom are standardized.
- (5) There are adequate controls against pilferage and policies on rotation, if applicable.

Note: Many audit tests discussed elsewhere in this guide, especially in Planning and Scheduling and in step D.1. above, can be used to measure the impact of not having a central stockroom or one which lacks many of the features discussed above.

3. Purpose: To determine whether using departments are ordering from the central stockroom in accordance with governing statutes, regulations, etc.

Steps:

- a. This step can be accomplished by examining those walk-through items available through the central stockroom. Sampling additional items may be necessary to supplement the walk-through sample.
- b. If departments are buying outside the central stockroom contrary to governing statutes, regulations, etc.,
 - (1) obtain an explanation from purchasing officials, including their views as to what would be needed for adherence to purchasing policies, and
 - (2) document instances where higher prices are paid for the outside purchases.

4. Purpose: To determine whether specifications are written and used in a manner which best serves the government's interest.

Steps:

- a. Determine whether purchasing statutes and regulations place with purchasing the authority to review, modify, and approve specifications.
- b. Review the procedures used in writing the specifications for the walk-through items and determine whether the following features are included.
 - (1) Brand names are avoided or expressly stated to be only descriptive (identifying salient features) and not restrictive.
 - (2) Performance specifications are used rather than prescriptive specifications.
 - (3) Specifications developed by Federal, State, or other local governments are kept on file and used when found acceptable, in lieu of developing new specifications.
 - (4) Specifications are reviewed and updated when necessary.
 - (5) Lists of qualified products and acceptable brands are maintained and used as an alternative to specification development. In addition, purchasing regulations include criteria for placing and removing items from these lists.
- c. If these features are not presented, discuss with purchasing officials whether such features would improve the present system.
- d. Also document any practices which are either inefficient or restrict competition. For example, if specifications are restrictive, determine how many vendors are excluded from the related solicitation, and if such practices result in higher prices. Another example might be specifications written unnecessarily for common "off-the-shelf" items.

E. Inspecting and Testing

1. Purpose: To determine whether the central purchasing unit effectively manages the inspection and testing of delivered items.

Steps:

- a. Determine whether there is a systematic and organized program for inspecting and testing goods and services.
- b. If there is such a program, determine whether it includes the following features.
- (1) The central purchasing unit has the responsibility and authority to establish and oversee the program.
 - (2) Procedures and policies are spelled out specifying how inspecting and testing will be accomplished. This includes written criteria for testing delivered items for conformance with previously agreed terms, conditions, and specifications.
 - (3) If all items can't be inspected and tested, there are at least provisions for performing these functions on a periodic and statistical sampling basis.
 - (4) If inspection and testing is delegated, the central purchasing unit routinely monitors the program.

Also, determine whether current procedures and practices are in line with governing statutes and regulations. For any inconsistencies, obtain an explanation for the individuals involved.

- c. If there is no program:
- (1) Interview purchasing and receiving department officials to determine how they assure full value is received and specifications are met.
 - (2) Randomly select several departments which are scheduled to receive a shipment of

materials or equipment. Observe how the shipments are inspected and tested. Observed procedures and practices should be reconciled with the responses previously obtained and governing statutes and regulations. Obtain explanations from officials among the departments. If delivered items aren't inspected or tested, identify instances where full value was not received or specifications were not met.

F. Property Management

1. Purpose: Determine whether there is an effective property management program.

Steps:

- a. Determine whether governing statutes and regulations place with purchasing the authority and responsibility to establish and oversee an effective property management program.
- b. If there is a program for controlling and managing government-owned property, determine whether it includes the following features:
 - (1) Inventories are periodically taken of nonexpendable property.
 - (2) Inventory records are routinely updated to reflect transactions, such as acquisitions, transfers, dispositions, trade ins, and other actions affecting onhand balances.
 - (3) Inventory records identify which department is accountable for what item.
 - (4) The central purchasing unit is also responsible for the disposition of obsolete, unusable, and surplus items.
 - (5) Checks are periodically made of equipment utilization.
 - (6) Using departments are systematically notified of available surpluses and scrap, and purchases are made only after screening for surplus items.

- c. Determine whether current procedures and practices are in line with governing statutes and regulations. For any inconsistencies obtain an explanation from officials.
- d. If there is no program for managing property, including the maintenance of an inventory, or the program lacks many of the features discussed above, obtain an explanation from officials and document any resultant inefficiencies, such as:
 - (1) Inventories contain items which are obsolete, unusable, or surplus.
 - (2) Acquisitions are being planned for items which are available from other departments.
 - (3) Pilferage is cited as a common problem.
 - (4) Unutilized equipment is present.
 - (5) Scrap and surplus items are inconsistently and inefficiently disposed of.
 - (6) Items are purchased even though available from surpluses.

G. Professional Development

- 1. Purpose: Determine whether the governmental unit promotes and fosters professional development among the purchasing unit's staff.

Steps:

- a. Interview purchasing officials and technical staff to determine whether
 - (1) they keep current with procurement trends (e.g., affiliate with professional purchasing associations);
 - (2) there is a continuing training program to supplement job-required knowledge;
 - (3) they are encouraged to seek external training to stay abreast of new developments in the procurement area;

- (4) they are familiar with the purchasing principles and concepts discussed in this audit guide;
 - (5) the governmental unit provides funds to support the above.
- b. Although it is nearly impossible to assess its precise impact, the lack of professional development aggravates other inefficiencies in the procurement system. Consequently, when assessing the causes of other weaknesses (e.g., lack of value analysis), consider if the weakness could also be caused by the lack of professional competence of the individual(s) involved. If this is the case, discuss with purchasing or higher level officials whether a professional development program would be beneficial.

II. Cooperative purchasing

This section is aimed at evaluating the procurement unit's efforts in achieving additional benefits through cooperative purchasing arrangements. This type of arrangement normally takes one of the following forms:

1. A joint association between two or more governments with one providing the purchasing resources, but at little additional cost to itself.
 2. Small governments combining common requirements for joint acquisition, distributing any administrative costs proportionately.
 3. A separate legal entity created by participating governments which collectively supervise and staff the organization.
 4. Smaller governments buying from or through the purchasing arrangements of larger governments (e.g., purchasing from a State contract).
1. Purpose: Determine whether purchasing statutes, ordinances, regulations, etc., foster participation in cooperative purchasing arrangements.

Steps:

- a. Review State and local statutes to determine whether participation in cooperative purchasing

arrangements is authorized. Document any restrictive or limiting covenants which impede participating in joint purchasing arrangements.

b. Determine either:

(1) Why participation in cooperative purchasing arrangements is limited or lacking.

i. If there are no legal restrictions from participating in cooperative arrangements, interview purchasing and governmental officials to determine what problems confront the government in participating or implementing some form of cooperative purchasing effort. If possible, solicit the views of neighboring governments as to the feasibility or existence of such an arrangement. Also, identify specific items which would lend themselves to such an arrangement.

ii. Compare prices paid for the walk-through items with prices available from State contracts or through another available cooperative arrangement. If State or cooperative prices are significantly less than prices paid, obtain an explanation from the purchasing officials as to why the cooperative arrangement is not used.

(2) What opportunities exist for improving existing cooperative efforts.

i. Through discussion with purchasing officials, determine the specific nature of the cooperative arrangement. Also obtain the views of participating members and nonparticipating purchasing officials of neighboring governments.

ii. Document the extent of such purchases (i.e., dollar value, number of items, number of participants, etc.).

iii. Determine whether the existing arrangement includes the following features:

- (A) Besides joint acquisition, the arrangement includes cooperative disposition of surplus and unusual items, pooling of administrative and professional resources, and possibly, sharing of facilities, services, and information.
 - (B) Governing statutes are properly structured permitting the governmental unit to participate in such programs.
 - (C) No single participant dominates the purchasing operations. Instead, there is true cooperation in establishing specifications, requirements, terms, conditions, etc.
 - (D) All associated costs are periodically and systematically evaluated to determine whether total costs may be higher than costs of buying separately.
 - (E) The program is continually evaluated to determine whether items should be dropped or added.
- iv. If any of these features are absent, assess the impact. For example, where total costs aren't analyzed, determine whether certain items could be obtained at less costs by buying separately.

III. Accountability

1. Purpose: To determine the nature and extent of any purchasing goals. (For elaboration on establishing goals refer to ch. 4, "Accountability of the Purchasing Function," of part I of our report.

Steps:

- a. Determine whether there is a systematic program for establishing goals for the central purchasing unit.
- b. If there is such a program, determine whether it includes the following features.

- (1) Goal setting established as a joint undertaking between public officials and the purchasing official.
 - (2) Goals are reviewed periodically by public and purchasing officials and reviewed as necessary.
 - (3) Purchasing's performance in meeting these goals is systematically monitored by public officials.
 - (4) When compared with actual performance, established goals serve as indices of the purchasing unit's efficiency and cost effectiveness.
 - (5) Established goals represent a mix of quantitative and qualitative factors, both of which cover efficiency, economy, and effectiveness assessments.
- c. If there are no established goals, discuss with purchasing officials the desirability of using the matrix of indicators in appendix I.
 - d. Apply as many of these indicators as possible, based on existing data, to the purchasing system involved. Discuss the results of your inquiries with purchasing officials.
2. Purpose: To determine the nature and extent of any internal or external audits of the purchasing function.

Steps:

- a. By examining and reviewing previous audit reports, determine whether the efficiency and cost effectiveness of the purchasing system is addressed.
- b. If prior audits lacked adequate coverage of, or omitted, these aspects of purchasing, discuss with purchasing or higher level officials why these areas aren't included.
- c. If prior audit reports contain recommendations for improving the purchasing system, determine whether implementing action will be taken; if not, why not?

**TABLE OF QUANTITATIVE AND QUALITATIVE INDICATORS
ARRAYED AS TO TYPE OF ASSESSMENT INVOLVED**

Factors assessing effort and cost involved in acquiring needed goods and services (EFFICIENCY)

Quantitative

1. Administrative savings as a result of reduction in paperwork.
2. Administrative savings as a result of using blanket purchase orders.
3. Ratio of purchasing department's operating costs to dollar purchases.
4. Ratio of purchasing employees to total employees.

Qualitative

1. Practices followed in delegating purchasing authority to other departments.
2. Practices followed in providing financial and nonfinancial rewards for performance.
3. Proper selection and training of buyers.
4. Organizational structure that encourages individual action and effective team work.

Factors assessing savings, product or service improvements due to purchasing actions (ECONOMY)

Quantitative

1. Measure of purchasing's contribution to inventory control by the extent of savings attributable to stockless purchasing.
2. Extent of cost reductions attributable to the development of new supply sources.
3. Extent of cost reductions attributable to the use of value analysis.
4. Extent of cost reductions attributable to consolidation or standardization.

Qualitative

1. Purchasing's awareness of in-house versus contract out decisions.
2. Participation by purchasing personnel in outside professional activities.
3. Use of price analysis to assess reasonableness of prices obtained.
4. Improvement in service or end product due to purchasing action.

Factors assessing degree that purchasing caused needed goods and services to be delivered when it was required and at an acceptable level of quality (EFFECTIVENESS)

Quantitative

1. Measure of purchasing's contribution to inventory control by the relationship between inventory levels or turnover to related requisition volume.
2. Reduction in the frequency of executing rush orders (emergency purchases).
3. Measure of purchasing's contribution to inventory control by the ratio of product rejections to the total number of completed purchase orders.
4. Measure of purchasing's contribution to inventory control by the ratio of the number of purchase orders where delivery was overdue when received to the total number of completed purchase orders.

Qualitative

1. Existence of a purchasing manual that clearly defines authority and responsibility.
2. Purchasing responsibilities include the disposition of scrap, inventory and traffic control and invoice processing.
3. Ordering departments consult with purchasing before procurement decisions are made.
4. Establish economic order quantities for approved inventory control.

BASIC PROCUREMENT PRINCIPLES

These principles are intended to complement the audit guidelines when evaluating a city's purchasing function. While we believe the principles are sound, they are intended to be used as guidance and are not mandatory.

1. Code of Conduct

The governmental activity should maintain a written code or standards of conduct to govern the performance of its officers, employees, or agents engaged in awarding and administering contracts. No employee, officer, or agent should participate in selecting, awarding, or administering procurement if, to his or her knowledge, any of the following has a financial or other interest in the firm of a prospective prime contractor or any subcontractors or suppliers considered for awards.

- a. the employee, officer, or agents;
- b. any member of his or her immediate family;
- c. his or her partner; or
- d. an organization which employs any of the above, or with which any of them have an arrangement concerning prospective employment.

The governmental activity's officers, employees, or agents should neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible by State or local law or regulations, such standards of conduct should provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the activity's officer, employees, or agents or by contractors or their agents.

2. Extent of Competition

All procurement transactions, regardless of whether by formal advertising or by negotiation and without regard to dollar value, should be conducted in a manner that provides maximum open and free competition. A contract should not be awarded when competition is restricted or eliminated. Examples of what is considered to be restrictive to competition include placing unreasonable requirements on firms in order for them to qualify to do business, noncompetitive practices between firms, and an organizational conflict of interest. In order

to insure objective contractor performance and eliminate unfair competitive advantage, a contractor that develops or drafts specifications, requirements, a statement of work, an invitation for bids, and/or a request for proposals for a particular procurement should be excluded from competing for and performing work under the directly ensuing procurement.

3. Procurement Procedures

The governmental activity should have written procurement procedures which provide, as a minimum, the following procedural requirements.

a. Proposed procurement actions should be reviewed to consider consolidation of requirements to obtain a more economical purchase and to avoid unnecessary or duplicative items. Where appropriate, an analysis should be made of lease and purchase alternatives, "make or buy" situations, and any other appropriate area of analysis to determine which procurement approach would result in the most economical, practical procurement. Such analyses should be documented as a part of the procurement file.

b. Solicitations of offers, whether by formal advertising or negotiation, should incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description should not, in competitive procurements, contain features which unduly restrict competition. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors should be clearly specified.

c. Invitations for bids and requests for proposals should clearly set forth all requirements which bidders must fulfill in order for bids and proposals to be properly evaluated. Factors to be used in evaluating bids or proposals must be clearly stated in the solicitation to enable bidders to know how their bids or proposals will be evaluated. If a solicitation requires a listing of subcontractors or subitem vendors, a bidder's failure to list should be treated as a matter of responsibility, unless the solicitation unequivocally stipulates, or State or local law requires, that a failure to list should make a bid nonresponsive.

4. Type of Procuring Instrument

The type of procuring instruments used, i.e., fixed-price contracts, cost-reimbursement contracts, purchase orders, incentive contracts, etc., should be appropriate for the particular procurement. For cost-type contracts, the contractor's cost accounting system should be adequate for determining costs applicable to the contract and the procurement office should maintain appropriate surveillance during contract performance to assure that inefficient and wasteful methods of contract performance are not used. "Cost-plus-a-percentage-of-cost," and "percentage-of-construction-cost" types of contracts should be prohibited.

5. Method of Procurement

Procurements should be made by one of the following methods.

a. Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies, or other property, costing in the aggregate not more than a specific dollar amount established as a ceiling by the governmental activity. If small purchase procedures are used for a procurement, price or rate quotations should be obtained from an adequate number of qualified sources. Documentation should be maintained showing the price of rate quotations and supporting the final amount of the procurement. This documentation may be in the form of itemized purchase orders, vouchers, or bills; sales slips; memorandum of oral price or rate quotations; or copies of or references to catalogs or price lists.

b. Formal advertising is a method of procurement in which sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming exactly with all the material terms and conditions of the invitation for bids, is lowest in price.

(1) In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum, the following.

(a) A complete, adequate, and realistic specification or purchase description is or can be made available.

(b) Two or more responsible suppliers are willing and able to compete effectively.

(c) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.

(d) Sufficient time is available to prepare a complete statement of needs and terms and for the bidders to prepare and submit their bids.

(2) If formal advertising is used for a procurement, the following requirements should apply.

(a) Within a sufficient time prior to the date set for opening of bids, bids should be solicited from an adequate number of known suppliers. In addition, the invitation should be publicly advertised to allow for full and free competition among all interested bidders. The invitation for bids, including specifications and pertinent attachments, should clearly define the items or services needed in order for the bidders to properly respond to the invitation.

(b) All bids should be opened publicly at the time and place stated in the invitation for bids. A firm-fixed-price contract award should be made with reasonable promptness by written notice to that responsible bidder whose bid conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs, and life-cycle costs should be considered in determining which bid is lowest. Any or all bids may be rejected for sound business reasons or in the program's best interest. Such rejections should not be arbitrary but must be based on sound, documented justifications and are to be a part of the procurement file.

(c) When the possibility exists that only a single bid might be received for a particular procurement, the governmental activity should insure that a fair and reasonable price will be obtained. Written notice should be provided to the prospective bidders that, in the event a single bid is received, a price of cost analysis of the bid will be performed. If only a single bid is received and it is impossible to perform a valid price analysis, the bidder should be required to furnish a detailed cost proposal for audit and possible subsequent negotiation.

c. Competitive negotiation is a method of procurement in which proposals are requested from a number of sources and the request for proposal is publicized, negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable contract is awarded, as appropriate. If competitive

negotiation is used for a procurement, the following requirement should apply.

(1) Proposals, including price, should be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The request for proposals should be publicized and reasonable requests by other sources to compete should be honored to the maximum extent practicable.

(2) When price is not the only factor, the request for proposal should identify all significant evaluation factors including price or cost and their relative importance.

(3) The governmental activity should provide mechanisms for technical evaluation of the proposals received, determination of responsible offerors for the purpose of written or oral discussions, and selection for contract award.

(4) Written or oral discussions should be conducted with all responsible offerors who submit proposals within a competitive range, price, and other factors considered, except that the discussions may be omitted where clearly inappropriate, unnecessary, or impracticable, and the request for proposal notifies all offerors of the possibility that award may be made without discussion.

(5) Award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price, and other factors considered. Unsuccessful offerors should be notified promptly. Upon request by an unsuccessful offeror, such offeror should be informed of the reasons for not receiving the award.

d. Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

6. Selection of Procurement Method

a. Except as provided for in the remaining paragraphs of this section, formal advertising should be the method used.

b. Small purchase procedures may be used if the procuring party does not expect the aggregate amount of the procurement to exceed the established ceiling. In arriving at the aggregate amount involved in any one transaction,

there must be included all items which should properly be grouped together. Requirements should not be broken down into two or more transactions for the purpose of using small purchase procedures.

c. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. The procurement activities records should include a written determination setting forth the reasons for not using formal advertising.

d. Noncompetitive negotiation may be used when the award of a contract is infeasible under the methods set forth in subparagraphs a, b, and c above. Circumstances under which a contract may be awarded by noncompetitive negotiation should be limited to the following.

(1) The item is available only from a single source.

(2) Public exigency or emergency will not permit a delay incident to competitive solicitation.

A written statement justifying the use of noncompetitive negotiation should be included in the contract file prior to the award of a contract negotiated under noncompetitive conditions.

7. Contractor Responsibility

The governmental activity should award contracts only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration should be given to such matters as contractor integrity, record of past performance, and financial and technical resources or accessibility to necessary resources.

8. Cost Principles

State and local governments should develop and use cost principles for determining allowable costs under cost-type contracts and for use in negotiating fixed-price contracts which are based on cost estimates.

9. Cost or Price Analysis

Governmental activities should perform some form of cost or price analysis in connection with every negotiated procurement action including contract modifications. The method and degree of analysis, however, is dependent on the facts surrounding the particular procurement and pricing situation. Cost analysis should be performed when the offeror is required to submit the elements of his estimated cost, when adequate price competition is lacking, and for sole-source procurements, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. Price analysis should be used in all other instances to determine the reasonableness of the proposed contract price. Prior to the award of any negotiated contract or modification of any contract over \$100,000, except when price reasonableness is based on adequate price competition or established catalog or market price or law or regulation, the contracting activity should require the contractor to submit the elements of its estimated costs supported by cost or pricing data or specifically identify such data in writing and to certify that, to the best of his knowledge and belief, the data is accurate, complete, and current at the time of agreement on price. Contracts or modifications negotiated with reliance on such data should provide the governmental activity a right to a price adjustment to exclude any significant sum by which the price was increased because the contractor had submitted data that was not accurate, complete, and current as certified. Any contractor bound by these requirements should require the same of subcontractors of any tier in support of subcontract estimates and prior to the award of subcontracts that meet the above criteria.

10. Procurement Records

Records or files should sufficiently detail the history of a procurement. These records or files should include, but are not necessarily limited to, information pertinent to rationale for the method of procurement, selection of contract type, contractor selection, and the basis for the cost or price negotiated.

11. Contractor Records, Access, and Audit

Governmental activities should have access to pertinent records of contractors' and subcontractors' books and documents or other evidence for the purpose of audit, examination, and copying, and shall be permitted to enter and inspect, upon reasonable notice, the premises where the contractor is performing the work required by the contract.

12. Value Engineering

Governmental activities should be encouraged to incorporate value engineering provisions in contracts for projects of sufficient size and duration to offer reasonable opportunities for cost reductions. Value engineering is defined as a systematic and creative effort which analyzes each contract item or task to insure that its essential function is provided at the overall lower cost.

13. Contract Administration

Governmental activities should maintain a system for contract administration to insure that contractors conform with the terms, conditions, and specifications of the contract or purchase orders, including modifications.

14. Payments

Payment should be made promptly for contract work performed, including, when appropriate, partial payment for goods, materials, or work received or accepted. Progress payments may be made for work performed under a contract, upon the basis of costs incurred not to exceed the contract price, if permitted under State law and authorized by the governmental activity, where (a) a fabrication period of more than 6 months between the beginning of work and the first delivery is anticipated, (b) a substantial amount of predelivery expenditures are anticipated, (c) the contract is for production or delivery of major equipment, and (d) the financial interest of the government is adequately secured.

15. Subcontracts

The governmental activity should not restrict competition for subcontracts by directing their contractors to use a particular subcontractor or any selected group of subcontractors. When the prime contract is not a

competitively awarded firm-fixed-price contract, the contracting activity should review the award of subcontracts to the extent necessary to ensure that sound procurement practices are being followed.

16. Profit Guidelines

For each contract for which cost analysis is performed, profit, if any, should be negotiated as a separate element of the price. The aim of the negotiation is to establish a fair and reasonable profit in light of the risk borne by the contractor, the contractor's capital investment, and the quality of its record of past performance.

17. Contingent Fees

The governmental activity should include in every contract awarded a "covenant against contingent fees" in which the contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach of violation of the warranty, the governmental activity should have the right to annul or terminate the contract or to deduct from the contract price or consideration or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

18. Gratuities

The governmental activity should include in every contract awarded a "covenant against gratuities" in which the contractor shall represent and warrant that neither it nor any employee, agent, or representative of the contractor or of any subcontractor, offered or gave any gratuities to any official, employee, or agent of the governmental body for which the contract is being awarded with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of the contract. Such provision should provide that, in addition to other rights and remedies provided by law, the contracting activity may terminate the contract by written notice or may assess exemplary damages in an amount which should be 10 times the value of the gratuities.

19. Contractor Provisions

The governmental activity should insure that contracts for the performance of work define a sound and complete agreement, including provisions to define, to the extent appropriate:

- a. the scope and extent of contract work;
- b. the time for completion of the contract work, including where appropriate, dates for completion of significant tasks;
- c. the contract price and method of payment;
- d. identification of key personnel and facilities necessary to accomplish the work within the required time;
- e. the extent of subcontracting and consulting agreements;
- f. provision for changes by the governmental activity within the general scope of the contract in the services or work to be performed;
- g. provision for termination by the governmental activity of contract performance for default by the contractor or for the convenience of the governmental activity and, where appropriate, for suspension by the governmental activity of the contractor's performance of project work under the contract;
- h. provision for resolution of disputed matters arising under the contract through adjudication, administrative remedies, or arbitration, at the option of the governmental activity;
- i. sanctions or penalties for nonperformance by the contractor;
- j. price reduction for defective cost or pricing data;
- k. contractor records, access, and audit;
- l. all provisions needed to ensure contractor conformance with the terms, conditions, and specifications;
- m. prohibition against contingent fees and gratuities.

20. Cooperative Intergovernmental Agreements

To foster greater economy and efficiency in public procurement, governmental activities are encouraged to enter into cooperative intergovernmental agreements for procurement and/or use of common goods and services.

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