

April 26, 2023

**AMEND SECTION 3-2 AND CHAPTER VII OF THE BOARD RULES CONCERNING
PROCUREMENT AND CONTRACTING**

THE GENERAL COUNSEL RECOMMENDS:

That the Board amend Section 3-2 and Chapter VII of the Board Rules concerning Procurement and Contracting. Upon adoption of the attached amended Rules, any references to the prior Board Rule in Board rules, policies, guidelines or procedures shall be deemed to constitute reference to the new Board Rule text as described in the disposition table below:

Current Section Title	New Section Title	Description of Revision/Disposition
3-2 Law Department.	N/A	Increases authority delegated to the General Counsel for legal settlements from \$50K to \$100K. Requires General Counsel to report delegated authority activity on Chief Procurement Officer's ("CPO") monthly report.
7-1 Purchasing and Contracting for Supplies, Materials, Work and Services.	N/A	Revises existing Rule 7-1(d) to allow the CPO to establish guidelines to address special procurement required by federal or other grants. Establishes new Rule 7-1(e) that permits the CPO to create a pre-approved list of goods and services not adaptable to competitive procurement.
7-2 Competitive Solicitations for Biddable Items.	N/A	Increases CPO purchasing authority from \$150,000 to \$500,000.
7-3 Competitive Solicitations for Non-Biddable Items.	N/A	Revises existing Rule 7-3(b)(i) to increase the maximum contract value subject to Chief Procurement Officer Request (CPOR) competitive process from \$150,000 to \$250,000; Replaces existing Rule 7-3(b)(ii) to provide that contracts valued between \$250,001 to \$500,000 must be awarded pursuant to a duly advertised competitive process and may be executed by the CPO; Replaced existing Rule 7-3(b)(iii) to provide that contracts valued over \$500,000 must be awarded pursuant to a duly advertised competitive process and must be approved by the Board.

Current Section Title	New Section Title	Description of Revision/Disposition
7-4 Substitute Competitive Solicitations for Certain Purchases.	N/A	Conforms language to CPO's increased purchasing authority; provides that Board approval is required for contracts valued over \$500,000 per year.
7-5 Emergency Expenditures.	N/A	Removes reference to the Chief Administrative Officer. Miscellaneous clarifying revisions.
7-6 Single and Sole Source Contracts and Purchases.	N/A	Increases sole source contracting authority delegated to the CPO from \$75,000 to \$500,000. Consolidates authority to execute contracts valued up to \$500,000 under Rule 7-6(d) to the Chief Executive Officer ("CEO") and Chief Education Officer ("CEdO"), consistent with Section 7-13. Establishes Rule 7-6(d)(iv), delegating authority to the CEdO to execute contracts valued up to \$500,000 per year for placement of students at external facilities pursuant to an Individualized Education Program. Miscellaneous clarifying revisions.
7-7 Purchase Order Limitations	N/A	Increases value of transactions that may be memorialized by Purchase Order from \$75,000 to \$250,000.
7-8 Deposits, Bid Bonds, Performance and Payment Bonds	N/A	Miscellaneous clarifying revisions.
7-9 No Obligation to Award Contract.	N/A	No recommended language changes.
7-10 Expenditures - Prequalified Vendors	N/A	No recommended language changes.
7-11 Strategic Sourcing	N/A	Miscellaneous clarifying revisions.
7-12 President and Secretary to Execute Contracts and Leases.	7-12 Execution of Contracts, Leases and Other Documents.	Renames section 7-12.

Current Section Title	New Section Title	Description of Revision/Disposition
		<p>Clarifies Board President, Secretary, General Counsel, and Officers' signatory authority for various contracts.</p> <p>Adds provisions authorizing the use of electronic transactions and electronic signatures.</p>
7-13 Delegation of Authority to Act.	N/A	<p>Uniformly increases Officers' authority to align with rule changes.</p> <p>Increases CEO authority to execute education-related contracts authorized under Rule 7-4 and 7-6 to \$500,000.</p> <p>Increases the Chief Operating Officer's ("COO") authority to execute leases where Board is a tenant to \$250,000.</p> <p>Authorizes the COO to execute no-cost agreements regarding non-disclosure, confidentiality and network access.</p> <p>Increases CEdO authority to execute education-related contracts authorized under Rule 7-4 and 7-6 to \$500,000.</p> <p>Expands CEdO authority to include internship and fellowship agreements.</p> <p>Increases CPO's authority to execute contracts valued up to \$500,000 for biddable and non-biddable items, and for sole or single source contracts.</p> <p>Addresses limitations on extensions in alignment with the City of Chicago Procurement Task Force recommendations.</p> <p>Authorizes CPO to use innovative (i.e., electronic) procurement methods provided they are competitive and in the best interest of the Board.</p> <p>Increases General Counsel authority to enter licensing agreements valued at \$10,000.</p>

Current Section Title	New Section Title	Description of Revision/Disposition
		<p>Recognizes General Counsel authority to enter settlements in alignment with Rule 3-2.</p> <p>Removes references to "Chief Administrative Officer" and moves former Chief Administrative Officer authority under COO.</p> <p>Deletes section 7-13(i) to create new Rule 7-14 described below.</p>
7-13 (i) Delegation of Authority to Act.	7-14 Board Oversight of Procurement - Officer Accountability and Reporting on Delegated Authority.	<p>Creates new Rule 7-14, based on historical requirements under Rule 7-13(i).</p> <p>Describes Board oversight of procurement.</p> <p>Requires rolling 12-month purchasing plan that includes projected cost, solicitation type, MBE/WBE requirements and reporting requirements of the CPO.</p> <p>Reserves the Board's right to request Board review of any proposed transaction at least two months prior to a contract is awarded.</p> <p>Requires the CPO to report to the Board regarding contracts awarded without Board approval.</p>

Respectfully Submitted: 

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Ruchi Verma
General Counsel

CHAPTER III: ADMINISTRATIVE ORGANIZATION

Sec. 3-2. Law Department. The General Counsel shall have charge and control, subject to the approval of the Board of Education, of the Law Department and of all litigation, legal questions, and such other legal matters as may be referred to the department by the Board of Education or by the Chief Executive Officer. The General Counsel shall have authority to issue legal opinions, to bring actions on behalf of the Board, to take any actions required by law and to settle any matter before the Law Department, including, but not limited to, federal and state court cases, administrative enforcement agency cases, workers' compensation claims, employment issues, and contract disputes, for a sum up to and including ~~\$50,000~~ \$100,000, without Board approval. The General Counsel shall report ~~any all settlements in excess of \$40,000~~ for sums that are less than \$100,000 to the Board ~~in an appropriate manner on a monthly basis as part of the Chief Procurement Officer's delegated authority report under Section 7-14(c) of this Chapter.~~ The General Counsel shall also review all contracts, bonds, and leases subject to the exceptions noted in ~~Section 7-157-13~~ herein.

Assistants and Deputies General Counsel shall work under the direction and supervision of the General Counsel and are expressly prohibited from performing legal work for or undertaking legal representation of any person or entity other than the Board of Education. Violation of the prohibition against outside practice by an Assistant or Deputy General Counsel shall constitute cause for immediate dismissal from employment.

CHAPTER VII: PROCUREMENT & CONTRACT RULES

Sec. 7-1. Purchasing and Contracting for Supplies, Materials, Work and Services

(a) *Generally.* This Chapter sets forth the rules and procedures for purchasing of supplies, materials and work for the Board of Education of the City of Chicago (the "Board"), including all departments, offices and schools. It is derived from the requirements of the Illinois School Code and other applicable statutes and regulations. It sets forth required competitive and non-competitive purchasing procedures and the required forms of contract with vendors, contractors and suppliers.

(b) *Purchasing Limitations.* No purchases, including purchases made using school internal accounts, shall be made except as provided in these Rules. Only officers or employees expressly authorized by these Rules shall make purchases on behalf of the Board or enter into any contract of purchase, verbal or written, including a purchase order, for any apparatus, equipment, supplies, service, repairs, goods, wares or merchandise of any kind or description, or accept any of them on approval or otherwise. During a fiscal year, no officer or employee of the Board shall expend or contract to be expended any money, or incur any liability, or enter into any contract without an appropriation therefor, or in excess of: (a) the amount appropriated in the budget; (b) the amount authorized in a Board Report; (c) the amount authorized by an Officer pursuant to the exercise of their delegated authority; or (d) the compensation amount stated in the contract.

Except as otherwise provided in these Rules, all purchases for any dollar amount require a Purchase Order obtained consistent with these Rules and applicable law. The Purchase Order must be issued prior to order or receipt of goods or services. Any contract, verbal or written, made in violation of this section is void as to the Board.

(c) *Ineligible Vendors, Contractors or Suppliers.*

- (i) No person or business entity shall be awarded a contract if that person or business entity:
 - (1) has been convicted of bribery or attempting to bribe a public officer or employee of the Board, the State of Illinois or any other public entity, in that officer or employee's official capacity;

- (2) has been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price or otherwise;
 - (3) has made an admission of guilt of such conduct described above which is a matter of record but has not been prosecuted for such conduct;
 - (4) has engaged in Bid Stringing (as defined in 720 ILCS 5/33E-2(i-5)), which also includes any knowing attempt to divide or plan procurements to avoid the use of competitive procedures;
 - (5) has engaged in Bid Rigging (as defined in 720 ILCS 5/33E-3);
 - (6) has engaged in Bid Rotating (as defined in 720 ILCS 5/33E-4); or
 - (7) has been debarred by consent or involuntarily by the Board or by another public agency.
- (ii) For purposes of this section, where an official, agent or employee of a business entity has committed such conduct described above on behalf of such an entity and pursuant to the direction or authorization of a responsible official thereof, the business entity shall be chargeable with the conduct. Bid Stringing, Bid Rigging and Bid Rotating are prohibited.
- (iii) Ineligibility under ~~s~~Section 7-1(c)(i)(1) through (6) shall continue for three years following such conviction, admission of guilt or determination that the person has engaged in bid stringing, rigging or rotating.
- (d) *Purchasing Guidelines.* The Chief Procurement Officer ("CPO") is authorized to establish procurement guidelines to ensure the effective implementation of the procurement rules contained in this Chapter VII and to address special procurement required by federal or other grants. The Guidelines shall be published on the Board's public facing web-site.
- (e) *Goods and Services Not Adaptable to Competitive Procurement Methods.* The CPO shall pre-approve certain categories of goods and services which have been deemed not to be adaptable to competitive procurement procedures, including but not limited to public utility costs, airfare, conference or seminar attendance, advertising, and/or marketing services. Such purchases shall be authorized under this rule without a requisite procurement process.

Sec. 7-2. Competitive Solicitations for Biddable Items.

(a) *Contracts and purchases that must be made pursuant to a competitive bid solicitation ("Biddable Items").* Except as provided under ~~s~~Sections 7-2(c) (Non-Biddable Items), 7-3 (Competitive Solicitation for Non-Biddable Items), 7-4 (Substitute Competitive Solicitations for Certain Purchases) and 7-5 (Emergency Expenditures), all contracts for the purchases of supplies, materials or work in excess of \$25,000 shall be awarded to the lowest, responsive and responsible bidder who has conformed to advertised specifications, terms of delivery, quality and serviceability, after due advertisement, which includes at minimum, one (1) public notice published in a newspaper of the district at least ten (10) days before the due date of the bid.

(b) *Competitive bid solicitation procedures.*

- (i) All competitive bids for contracts in excess of \$25,000 must be sealed by the bidder and must be opened by a member or employee of the Board at a public bid opening at which the contents of the bids must be announced. The CPO may provide for an electronic process for accepting and opening competitive bids in accordance with the Illinois School Code. Each bidder shall receive at least three (3) days' notice of the time and place of the bid opening. If the stated bid opening day falls upon a holiday as established by the Rules of the Board, the time for receipt and opening of bids shall automatically be continued to the next business day at the same hour.

- (ii) Whenever the bids are opened and announced, a copy of the aggregate bid prices by category proposed by each bidder shall be publicly posted by the CPO not later than four (4) days following the day on which bids are opened.
- (iii) Bid solicitations for contracts and contracts and purchases based on bids between \$25,001 and ~~\$150,000~~\$500,000 per year must be approved by the CPO. All contracts and purchases of Biddable Items in excess of ~~\$150,000~~ \$500,000 per year must be approved by the Board.

(c) *Contracts and purchases that are exempt from competitive bid solicitations ("Non-biddable Items").* In accordance with 105 ILCS 5/10-20-21, the following contracts and purchases do not require bidding and are not subject to the bidding procedures in ~~§~~Section 7-2(b) (and any additional contracts in the event 105 ILCS 5/10-20-21 is amended):

- (i) contracts costing \$25,000 or less per year;
- (ii) contracts for the services of individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important part;
- (iii) contracts for the printing of finance committee reports and departmental reports;
- (iv) contracts for the printing and engraving of bonds, tax warrants and other evidences of indebtedness;
- (v) contracts for the purchase of perishable foods and perishable beverages;
- (vi) contracts for the purchases of materials and work that have been awarded to the lowest responsible bidder after advertisement, but due to unforeseen revisions, not due to the fault of the contractor for materials and work, must be revised causing expenditures not in excess of 10% of the contract price;
- (vii) contracts for the maintenance or servicing of, or provision of repair parts for, equipment, where such contracts are made with the manufacturer or authorized service agent of that equipment, and the provision of parts, maintenance or servicing can best be performed by the manufacturer or authorized service agent;
- (viii) purchases and contracts for the use, purchase, delivery, movement or installation of data processing equipment, software or services and telecommunications and interconnect equipment, software and services;
- (ix) contracts for duplicating machines and supplies;
- (x) contracts for the purchase of natural gas when the cost is less than that offered by a public utility;
- (xi) purchases of equipment owned by some entity other than the district itself;
- (xii) contracts for repair and maintenance, remodeling, renovation or construction or a single project involving an expenditure not to exceed \$50,000 and not involving a change or increase in the size, type or extent of an existing facility;
- (xiii) contracts for goods or services procured from another governmental agency;
- (xiv) contracts for goods or services which are economically procurable from only one (1) sources, such as for the purchase of magazines, books, periodicals, pamphlets and reports and for

utility services such as water, light, heat, telephone or telegraph;

- (xv) where funds are expended in an emergency and such emergency expenditure is approved by $\frac{3}{4}$ of the members of the board;
- (xvi) State master contracts authorized under 105 ILCS 5/28A-5, et seq.; and,
- (xvii) contracts providing for the transportation of pupils, which contracts must be advertised.

Sec. 7-3. Competitive Solicitations for Non-Biddable Items.

(a) Non-biddable Items costing \$25,000 or less do not require a competitive solicitation.

(b) Except as provided in ~~§~~Sections 7-4 (Substitute Competitive Solicitations for Certain Purchases), 7-5 (Emergency Expenditures) and 7-6 (Single and Sole Source Contracts and Purchases), all Nonbiddable Items with a cost in excess of \$25,000 shall be purchased or contracted after a competitive procurement process as follows:

(i) Level One: All purchases of Non-biddable Items between \$25,001 and ~~\$150,000~~\$250,000, ~~per year~~, shall be awarded pursuant to a procurement process whereby at least three (3) written price quotations are submitted to and evaluated by the CPO and awarded by the CPO to the most responsible and responsive proposer(s) with competitive pricing or any other form of competitive solicitation that is issued by the CPO in accordance with federal or state laws and/or regulations. Good faith competitive solicitations that do not yield three (3) legitimate price quotations may be deemed to satisfy the procurement process requirements of this section at the discretion of the CPO;

~~(ii) Level Two: All purchases of Non-biddable Items between \$150,001 and \$250,000 must be approved by the Board and awarded pursuant to a procurement process whereby at least three (3) written proposals with price quotes are submitted to and evaluated by the CPO and are awarded to the most responsible and responsive proposer(s) with competitive pricing, or any other form of competitive solicitation that is issued by the CPO in accordance with federal or state laws and/or regulations. Good faith competitive solicitations that do not yield three (3) legitimate price quotations may be deemed to satisfy the procurement process requirements of this section at the discretion of the CPO; and~~

~~(iii) Level ThreeTwo: All purchases of Non-biddable Items costing between \$250,001 and \$500,000 per year must be approved by the Board and awarded by the CPO pursuant to a duly advertised request for proposals/qualifications issued by the CPO or any other form of competitive solicitation that is issued by the CPO in accordance with federal or state laws and/or regulations; and,~~

(iii) Level Three: All purchases of Non-biddable Items costing more than \$500,000 per year must be approved by the Board and awarded pursuant to a duly advertised request for proposals/qualifications issued by the CPO or any other form of competitive solicitation that is issued by the CPO in accordance with federal or state laws and/or regulations.

Sec. 7-4. Substitute Competitive Solicitations for Certain Purchases.

(a) *Charter and Contract School Solicitations.* Charter School and Contract School charters and contracts shall be made only after an annual competitive process determined by the Chief Executive Officer. Charter School and Contract School renewals shall be determined in accordance with processes determined by the Chief Executive Officer.

(b) *Piggy-back On Other Public Entity Procurements.* The CPO is authorized to approve the purchase of Non-biddable Items and Biddable Items based on contracts between another governmental entity and its respective vendors (the "Reference Contract"), subject to the following conditions:

(i) The procurement process used to form the Reference Contract shall substantially comply with the competitive procurement requirements of these Rules and shall comply with all legal obligations applicable to the Board.

(ii) A separate contract between the Board and the governmental entity's vendor that includes all of the material terms in the Reference Contract shall be executed prior to any purchases. The contract entered into between the Board and the vendor may contain:

(1) pricing or compensation terms equivalent to, or more favorable to the Board than those contained in the Reference Contract;

(2) a period of duration or term which may vary from the term of the Reference Contract;

(3) a remedial program for minority and women-owned business enterprise participation in goods and service terms equivalent or more favorable to the Board than those contained in the Reference Contract;

(4) such additional provisions as the CPO determines to be in the best interests of the Board; or,

(5) such insertions to or deletions from the Reference Contract as are required by law or regulation applicable to the Board.

(iii) All purchases pursuant to this subsection must be approved by the CPO and require a contract, and those purchases over ~~\$150,000~~ \$500,000 per year require Board approval. The contract between the Board and the governmental entity's vendor is subject to the review and approval of the General Counsel.

(c) *Other Education-related Procurement Processes Mandated by Statute or Regulation.* Other education-related expenditures subject to statutory or regulatory procurement procedures outside the scope of these Rules shall be made in accordance with those procedures, including, but not limited to engagement of Illinois State Board of Education certified special education providers who are providing specialized services as mandated by the Individuals with Disabilities in Education Act.

(d) *Textbooks and Instructional Materials with Favored Pricing.* Purchases of textbooks and instructional materials are subject to the favored pricing obligations set out in 105 ILCS 5/28-1, et seq., and therefore the procurement rules set out in Section 7-2 or 7-3 shall not apply to such purchases. Suppliers of textbooks and instructional materials shall file a sworn statement annually with the CPO attesting that prices charged to the Board for textbooks and instructional materials are the lowest net prices for such materials as charged elsewhere in Illinois and in the United States. Suppliers charging higher prices in violation of their sworn statements are subject to penalties which include, but are not limited to, rebates for pricing overages. The Chief Education Officer may establish lists of recommended textbooks and instructional materials and provide guidelines for the selection and purchase of textbooks and instructional materials.

(e) *Purchases of Non-Biddable and Biddable Items through the Illinois School Purchasing Network or Government Purchasing Cooperative Contracts.* The CPO is authorized to approve the purchase of Non-biddable Items and Biddable Items through contracts (a) authorized under the Illinois School Purchasing Network in accordance with Article 28A of the Illinois School Code, or (b) procured from another governmental agency and offered by or through a government purchasing cooperative in which the

contracts were entered into in accordance with the purchasing laws and regulations of the procuring government entity. Any expenditure over ~~\$150,000~~\$500,000 per year further requires Board approval. For all such purchases, the CPO and the General Counsel shall also identify the method of purchase and contract requirements pertinent to the transaction. The contract between the Board and the Illinois School Purchasing Network, the government purchasing cooperative or their authorized vendor is subject to the review and approval of the General Counsel.

7-5. Emergency Expenditures.

- (a) An emergency shall be determined when, in the judgment of the CPO:
 - (i) it is necessary to make repairs and alterations, and purchase equipment, services or supplies (collectively, "Emergency Expenditures");
 - (ii) The Emergency Expenditures are necessary as a result of circumstances which call for immediate action (the "Conditions Precedent"); and,
 - (iii) the Conditions Precedent are a result of fire, accident, threat to the health, safety, security of individuals or other conditions, and such action is necessary to prevent material loss or damage to property, bodily injury or loss of life of the occupants of the Board's buildings and third parties who may be present in its buildings or on its premises, to prevent interference with school sessions or to protect the health, safety, security or well-being of students, staff or third parties ("Emergency Condition(s)").
- (b) In order to obtain approval of an Emergency Expenditure, the following steps must be taken:
 - (i) obtain the verbal or written approval of the Chief Executive Officer, Chief Education Officer, ~~Chief Administrative Officer~~, Chief Operations Officer or such other chief officer charged with authority over the Conditions Precedent;
 - (ii) obtain the verbal or written approval of the CPO;
 - (iii) after the work has been completed, the purchases have been made or the services have been rendered to the satisfaction of the appropriate Department, complete a Request to Approve Emergency Expenditure on a form approved by the CPO (the "Emergency Request Form");
 - (iv) obtain the verification of the appropriate chief officer on the Emergency Request Form; and,
 - (v) have the Emergency Request Form signed by the CPO.
- (c) If an Emergency Condition occurs after business hours, on a weekend, on a holiday or at any other time when the appropriate chief officer and the CPO cannot be contacted, each other appropriate Chief Officer of the Board, or their respective designee, has the authority to take the necessary action at ~~his/her~~ their own discretion. The foregoing authority is limited to the minimum expenditure of funds necessary to stabilize an Emergency Condition and protect persons and property from further harm. After the Emergency Request Form has been completed, the CPO shall prepare a Board Report and obtain approval of the Emergency Expenditure by a $\frac{3}{4}$ vote of the Board.

Sec. 7-6. Single and Sole Source Contracts and Purchases.

- (a) *Single and Sole Source Committee.* The CPO shall form and maintain a sole and single source purchasing committee consisting of representatives from multiple departments (a "Single/Sole Source Committee") to review and advise the CPO on whether requests to make non-biddable contracts in excess of \$25,000 per year from a sole source or single source meet the criteria for single or sole source purchases. The General Counsel or ~~his/her~~ designee shall advise the Committee. Sole source or single source agreements described in subsection (d) of this Rule do not require review by Single/Sole Source Committee.
- (b) *CPO Authority.* Sole and Single Source Contracts determined to meet the criteria for a sole or single

source contract may be approved by the CPO in amounts up to ~~\$75,000~~ \$500,000 per year or by the Board in amounts in excess of ~~\$75,000~~ \$500,000 per year, provided that the following process has been followed:

- (i) The Single/Sole Source Committee has determined by a majority vote of its members conducted by secret ballot that the requested contract or purchase meets the criteria for a sole or single source purchase or contract;
- (ii) The CPO determines that the requested contract meets the criteria for a sole or single source purchase or contract;
- (iii) A notice of an intent to enter a sole or single source contract or purchase has been posted on the Board's public-facing website for a period of at least three (3) calendar weeks prior to approval; and,
- (iv) No vendor or supplier has presented a valid claim, as determined by the Single/Sole Source Committee, that it has provided a similar scope of services, work, supplies or materials in the past and has the capacity to do so now. If a valid claim has been submitted, as determined by the Single/Sole Source Committee, then the CPO shall require that the competitive process commence to award the contract for the work.

(c) *Criteria for Awarding a Sole or Single Source Contract.* A sole or single source contract or purchase may be approved by the CPO after the Single/Sole Source Committee determines that it meets one or more of the following criteria:

- (i) The contractor, supplier or vendor has unique qualifications or expertise that match the Board's needs;
- (ii) Only one (1) contractor, supplier or vendor within the geographic area can meet the unique needs of the Board given nature of the services and/or goods and merchandise;
- (iii) The use of the contractor(s), supplier(s) or vendor(s) is required by the US Department of Education, the Illinois State Board of Education, or other federal, state or local governmental agency to provide services under a grant or educational service program administered by the governmental agency, including e.g., payments of proportionate share federal education funds for the purchase of goods and services for private school students under various federal title programs, etc.;
- (iv) The use of the contractor(s), supplier(s) or vendor(s) is required by a grantor in order for the Board to successfully meet the terms of the grant;
- (v) The use of the contractor(s), supplier(s) or vendor(s) is required by the terms of a restricted grant, gift, donation or legacy to the Board including those described in 105 ILCS 5/16-1;
- (vi) The use of the contractor(s), supplier(s) or vendor(s) is required due to copyright or other intellectual property restrictions;
- (vii) The cost of replacing the existing vendor or product exceeds economic benefit; or,
- (viii) The contract continuation is required for the original business case to be met.

(d) *Sole/Single Source Contracts for Certain Educational Purchases.* Sole or single source purchases described in subsections (d)(i)(ii) or (iii) do not require approval of the Sole/Single Source Committee and may be approved and executed by the Chief Executive Officer, or Chief Education Officer, ~~CPO, Chief~~

~~Operations Officer or General Counsel~~ in amounts up to ~~\$150,000~~\$500,000 per year. Sole or single source purchases described in subsections (d) (i) (ii) or (iii) in excess of ~~\$150,000~~\$500,000 require Board approval.

- (i) Payments of tuition to accredited institutions of higher education;
- (ii) Engagements with organizations or institutions providing internship, practicum or other educational learning opportunities to students, including student stipend programs;
~~or~~
- (iii) Payment of fees for membership in a professional association or organization providing educational programs and resources to support the professional capacity of Board employees, officers and members;
~~or~~
- (iv) Payment for special education services to facilities for students with disabilities up to \$500,000 per year, provided that placement of student(s) is pursuant to an Individualized Education Program.

Sec. 7-7. Purchase Order Limitations. Except for real estate transactions and intergovernmental agreements, purchases of ~~\$75,000~~\$250,000 or less may be made by purchase order charging appropriated funds.

Sec. 7-8. Deposits, Bid Bonds, Performance and Payment Bonds.

(a) When a bid deposit shall be required, whether by law or at the discretion of the CPO, it shall be so stated in the solicitation of bids, and the deposit shall be in a reasonable amount but not in excess of 5% of the total bid amount proposed. The bid deposit, when required, may be in the form of a money order, ~~or~~ certified check drawn upon a banking institution in good standing and made payable to the order of the Board, a specific bond or a letter of credit. In lieu of submitting the bid deposit as herein above provided, a bidder may file with the Board an annual bid bond, the amount of which shall be determined by the CPO; provided, however, an annual bid bond shall not be accepted on bids for construction work, alterations, repairs to buildings and grounds, and student transportation matters. Such annual bid bond shall in no case be less than \$10,000 and shall cover all bids submitted by such bidder during the period of the bond. All bid bonds shall be signed by a responsible surety company licensed to do business in the State of Illinois.

(b) All bid deposits accompanying a bid solicitation, except that of the successful bidder, shall be refunded or returned after the successful bidder has been determined and a contract has been awarded by the Board. The bid deposit of the successful bidder shall be returned after the full execution of the contract and the tendering of any payment and/or performance bond required under the contract. In case of a failure or refusal on the part of the selected bidder to execute a contract and tender a payment and/or performance bond, if required, within a reasonable period of time as determined by the CPO, the deposit of the selected bidder so failing or refusing may be forfeited and retained by the Board as liquidated damages and not as a penalty or, when a bid bond has been furnished in lieu of a deposit, the Board may take action on the bond.

(c) A payment and performance bond shall be required for all building construction and building and grounds repair work, and student transportation matters. A payment and performance bond may also be required on any other purchases or contracts when specified by the CPO. When a payment and performance bond is required, it shall be stated in the solicitation of bids and requests for proposals and/or qualifications, and the bonds required shall be in an amount sufficient to ensure the fulfillment of the contract of the successful bidder/proposer. Such bonds shall be signed by a responsible surety company licensed to do business in the State of Illinois.

Sec. 7-9. No Obligation to Award Contract.

The Board or the CPO shall have no obligation to award a contract for any solicitations.

Sec. 7-10. Expenditures - Pre-qualified Vendors.

The CPO shall submit a report to the Board each quarter of all expenditures made to pre-qualified vendors. The report shall include a list of: (a) all expenditures made to each individual pre-qualified vendor; (b) the total expenditures made to all pre-qualified vendors in the applicable pool; and, (c) the balance remaining of the aggregate amount authorized for each applicable pre-qualified pool of vendors.

Sec. 7-11. Strategic Sourcing.

The CPO or his/her designee shall prepare and make available to local schools, administrative offices and central office departments a list of strategic source vendors offering goods and services. Schools, administrative offices and central office departments requesting to use a vendor other than a strategic sourcing vendor must (a) provide information regarding the proposed purchase such as the quality of the goods and/or services and pricing and (b) obtain prior written approval from the CPO or his/her designee to purchase from the non-strategic sourcing vendor.

Sec. 7-12. ~~President and Secretary to Execute Contracts and Leases.~~ Execution of Contracts, Leases and Other Documents.

(a) Authorized Signatories.

- (i) President and Secretary. Except as otherwise provided in these Rules, the President and Secretary of the Board shall sign and execute all contracts duly authorized by order, resolution or direction of the Board and shall sign and execute leases of school property or property required for school purposes duly authorized by order, resolution or direction of the Board, in each case, which have been approved as to legal form by the General Counsel. The President, with the approval of the Board, may designate one or more persons who shall have proxy authority to affix the signature of the President to such contracts or leases. In the absence of the Secretary, the Assistant Secretary shall sign such contracts or leases. The Board may, at its discretion, authorize and designate a signatory for leases and contracts under certain specified dollar amounts and for ancillary documents that serve to administer or effectuate a contract or lease. In the event the President abstains from a contract or lease matter, the Board-approved contract or lease may be executed by the Vice President. In the case of abstention by the President and the absence, disability or abstention of the Vice President, the Board-approved contract or lease may be executed by any member of the Board. When so signed, executed and approved, such contracts and leases shall be deemed to be duly executed by the Board.
- (ii) The General Counsel. The General Counsel shall sign and execute all contracts involving the settlement of legal matters approved by the Board or approved by the General Counsel in accordance with these rules. The General Counsel shall approve all contracts as to their legal form and those contracts authorized under Section 7-13.
- (iii) The Chief Executive Officer and Designees. The Chief Executive Officer's designees as set forth in this rule shall execute all contracts that they have been authorized by these rules to approve.

- (b) Electronic Transactions. Any document, affidavit, certification or form required by this Chapter or submitted in connection with any Procurement may be accepted in electronic format subject to compliance with accepted means and methods of verification and authentication of electronic signatures.

- (c) Electronic Signatures. Contracts and other documents may be signed by authorized Board signatories and counter-signed by vendors or partners electronically, subject to compliance with accepted means and methods of verification and authentication. The Board, its officers and its agents shall rely on electronic signatures so made as authentic signatures binding on the Board and the counter-signatories and the institutions they represent, in accordance with the Uniform Electronic Transactions Act, adopted by the State of Illinois.

Sec. 7-13. Delegation of Authority to Act. In addition to the foregoing, the Board hereby delegates the following specific authority to the Chief Executive Officer and the following Officers or their respective designees as the Chief Executive Officer's designees with respect to making and executing certain agreements, which authority may be exercised without prior Board action or approval. This authority includes the authority to approve payments and ratify agreements within the scope of the authority delegated in this section. All authority exercised by the Officers pursuant to this Rule shall be reported to the Board on a monthly basis.

- (a) The Chief Executive Officer has the authority to authorize and execute the following:
- (i) Any and all intergovernmental agreements that have no cost to the Board, and other miscellaneous types of agreements that have no ~~financial impact on~~ cost to the Board, subject to approval as to legal form by the General Counsel; and,
 - (ii) Education-related agreements enumerated in ~~Section 7-4 (c) and (d) and Section 7-6 (d) (i) and (ii)~~ up to ~~\$150,000~~ \$500,000 per provider/institution, per year, subject to approval as to legal form by the General Counsel.
- (b) The Chief Operations Officer has the authority to authorize and execute the following:
- (i) Any and all real property leases/licenses where the Board is the landlord/licensor, with a term ~~of less than~~ not to exceed ten (10) years, regardless of the dollar amount, subject to approval as to legal form by the General Counsel (except for leases/licenses with Charter Schools, which require prior Board approval); provided, however that the Chief Operations Officer may authorize and execute such leases/licenses with no further approval from the General Counsel when using the form agreement established by the Law Department with no modifications thereto other than to include business terms. Further, the Chief Operations Officer has the authority to authorize and execute all real property leases/licenses (including those with indemnification provisions) where the Board is the tenant/licensee, the term ~~of less than~~ not to exceed ten (10) years and the dollar amount for the term of the lease/license is ~~\$75,000~~ \$250,000 or under, subject to approval as to legal form by the General Counsel. Further, the Chief Operations Officer has the authority to authorize and execute any and all agreements and documents to grant the Board access or right of entry to property including those with indemnification provisions.
 - (ii) All Change Orders related to construction. "Change Order" means a change in a contract term other than as specifically provided for in the contract which authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion. The Chief Operations Officer shall establish construction change order procedures for the submission and approval of Change Orders. The Chief Operations Officer shall report all Change Orders to the Board on a monthly basis. The monthly report shall include a brief description of the change, the original contract amount, the net change by previous Change Orders in dollar amount and by percentage, the total contract amount prior to the current Change Order being submitted, the net increase/decrease in contract amount with the current Change Order in dollar amount and by percentage and the revised contract amount. All Change Orders must be in compliance with the Public Works Contract Change Order Act (50 ILCS 525/1, et seq.).

- (iii) Agreements or documents for the sale, disposition, transfer, donation or auctioning of Board assets, subject to approval as to legal form by the General Counsel, and provided that the compensation to be paid to a third party for these services shall be payable or deductible from the proceeds. The Chief Operations Officer shall also have the authority to approve the transfer of school assets to other schools (including charter schools). Board assets mean those goods which are tangible, non-real estate properties. The sale, disposition, transfer, donation and auctioning of Board assets with an original purchase price or fair market value of \$5,000 or more that were purchased with funds from the Illinois State Board of Education shall be subject to the approval of Corporate Accounting. The Chief Operations Officer shall report to the Board on an annual basis all assets sold, transferred, donated, or otherwise disposed under the delegation of authority herein.
- (iv) No-cost agreements regarding non-disclosure, confidentiality and network access subject to approval as to legal form by the General Counsel.
- (c) The Chief Education Officer has the authority to authorize and execute the following agreements and purchase orders:
 - (i) Education-related agreements enumerated in ~~Section 7-4~~ and Section 7-6 (d) (i) and (ii) up to ~~\$150,000~~ \$500,000 per provider/institution, per year subject to approval as to legal form by the General Counsel.
 - (ii) No-fee education-related agreements, ~~including internship agreements~~, programmatic agreements and data sharing agreements, subject to approval as to legal form by the General Counsel.
 - (iii) Internship or fellowship agreements, subject to approval as to legal form by the General Counsel.
- (d) The Chief Financial Officer has the authority to: (i) accept any and all grants, donations and gifts of any dollar amount; and, (ii) refund any unspent dollars from grants, donations or gifts. The Chief Financial Officer has the authority to execute any and all grant, donation or gift acceptance agreements and amendments related thereto required by any such grantor, donor or giftor, including agreements with obligations to cost-share using district funds or to indemnify the grantor, donor or giftor. However, any grant, donation or gift acceptance agreements and amendments related thereto with a total value of \$250,000 or more of both external funding and internal funding shall be subject to approval as to legal form by the General Counsel. The Chief Financial Officer together with the head of the department receiving the grant have the authority to provide such additional information, assurances and certifications as are necessary in connection with such grant. For all grants, gifts and donations and refunds of the same, the Chief Financial Officer shall report to the Board on a monthly basis all grants, gifts and donations received in excess of \$50,000, all related cost-sharing obligations contained in such grants, gifts or donations in excess of \$50,000, and all refunds of unspent grants, gifts or donations in excess of \$5,000. Expenditure of grant funds are subject to the procurement rules in this Chapter VII.
- (e) The CPO has the authority to:
 - (i) Approve purchases of up to ~~\$150,000~~ \$500,000 dollars per year, for a period not to exceed three (3) years, not including options to renew, except sole or single source contracts, and to authorize and execute any and all of the purchasing documents enumerated below, subject to approval as to legal form by the General Counsel, when such purchases are made in accordance with the Board Rules set forth in this Chapter VII; provided, however, that the CPO may authorize and execute such purchasing documents with no further approval from the General Counsel when using the form agreement established by the Law Department with no modifications thereto other than to include business terms. If modifications are made to the form agreement, then approval of the General Counsel as to legal form is required.

- (1) Sole or single source agreements that do not exceed ~~\$75,000~~ \$500,000 dollars per year, for a period not to exceed three (3) years, not including options to renew;
 - (2) All other agreements for Biddable Items and Non-biddable Items that do not exceed ~~\$150,000~~ \$500,000 dollars per year, for a period not to exceed three (3) years, not including options to renew;
 - (3) Options to renew ~~and/or mutually agreed to extensions of agreements~~ for Biddable Items and Non-biddable Items that do not exceed, ~~for a period not to exceed three (3) years~~ \$150,000 \$500,000 dollars per year during the Renewal Term; and,
 - (4) Amendments to contracts for Biddable Items and Non-biddable Items initially costing ~~\$150,000~~ \$500,000 dollars per year, for a period not to exceed three (3) years, not including options to renew and under which amendments do not increase the total obligation to more than ~~\$150,000~~ \$500,000 dollars per year, for a period not to exceed three (3) years or materially diminish the obligations of the vendor.
- (ii) Approve payments and ratify:
- (1) Sole and single source agreements for the purchase of Non-biddable Items up to ~~\$75,000~~ \$500,000 per year;
 - (2) Agreements for the purchase of Non-biddable Items up to ~~\$150,000~~ \$500,000 dollars per year, for a period not to exceed three (3) years; and,
 - (3) Agreements for Biddable Items between \$10,001 and \$25,000 when such purchases are not made in accordance with the Board Rules set forth in this Chapter VII.
- (iii) Approve the amendments enumerated below to contracts for Biddable Items and Non-biddable Items ~~that exceed \$150,000~~, subject to approval as to legal form by the General Counsel, when such amendments do not increase the ~~Board approved~~ maximum expenditure amount in excess of the Chief Procurement Officer's authority under Section 7-13(e) of this Chapter or materially diminish the obligations of the vendor.
- (1) Amendments to effectuate a reduction in unit price negotiated by the CPO;
 - (2) Amendments to effectuate an assignment and assumption of a Board contract to another corporate entity due to the corporate reorganization of a Board vendor;
 - (3) Amendments to effectuate a corporate name change of a Board vendor;
 - (4) Amendments to effectuate a contract extension; ~~and~~
 - (5) Amendments to effectuate administrative corrections or clarifications; ~~and,~~
 - (6) Mutually agreed to extensions of agreements for Biddable Items and Non-biddable Items provided that: (i) only one (1) extension may be exercised upon exhaustion of all renewal options; (ii) such extension may only be for up to 50% of the value of the initial contract term; and, (iii) such extension may only be for a period not to exceed one (1) year.
- (iv) Make a procurement using innovative methods of procurement, including, but not limited to, electronic procurement, reverse auctions, electronic bidding, electronic auctions, prequalification and pilot procurement programs that have no cost to the Board. In order to implement innovative methods of procurement, either directly or through a service provider, the CPO must make a determination that such process is competitive and in the best interest of the Board.

- (f) The General Counsel has the authority to appoint outside counsel, retain experts and to take all actions required to fulfill the duties and obligations imposed upon the General Counsel in Chapter III of these Rules, subject to appropriation. The General Counsel also has the authority to authorize and execute any and all agreements and documents regarding the following:
 - (i) Access and right of entry to property which may include indemnification;
 - (ii) Indemnification related to agreements for the purchase, sale, use, occupancy, license or lease of real estate;
 - (iii) Zoning, taxes and other governmental petitions and requests;
 - (iv) Indemnification related to shrink-wrap and click-wrap agreements;
 - (v) Agreements with a ~~nominal~~ value of less than ~~\$5,000~~ \$10,000 granting non-exclusive rights to use Board intellectual property and other agreements related to the grant of intellectual property rights and permissions, including any indemnification of third parties associated with said agreements; ~~and~~
 - (vi) Settlement Agreements and/or Agreements resolving legal disputes as authorized by the General Counsel pursuant to the authority delegated to the General Counsel under these Rules or as authorized by the Board; and,
 - (vii) Other legal matters having no ~~direct financial impact on~~ cost to the Board.
- (g) The Communications Officer has the authority to execute access agreements to film in Board facilities and CPS schools, subject to approval as to legal form by the General Counsel.
- ~~(h) The Chief Administrative Officer or designee has the authority to execute no-fee agreements regarding non-disclosure, confidentiality and network access with no further approval from the General Counsel when using an agreement approved by the Law Department.~~
- ~~(i) The CPO shall file a report with the Board by the last day of each month which lists all contracts and purchase orders authorized and executed in the prior calendar month pursuant to the delegations of authority in this Section and shall include the total cost and type of solicitation used. The report shall be included on the Board's public agenda for its next regular public meeting and accepted by the Board at that meeting.~~

Sec. 7-14. Board Oversight of Procurement and Purchasing - Officer Accountability and Reporting on Delegated Authority.

- (a) Contracting Plan. The Chief Procurement Officer ("CPO") shall maintain a 12-month contracting plan which shall be included in a monthly Delegated Authority Report and published on the Board's website that includes at minimum:
 - (i) A list of each competitive solicitation reasonably anticipated to be advertised in the next 12-month period where the resulting contract will be valued between \$250,000 and \$500,000 per year;
 - (ii) A list of each contract resulting from a competitive procurement solicitation, where such contract is valued between \$250,000 and \$500,000 per year, that is scheduled for renewal or extension in the next 12-month period; and,

- (iii) Each list under (i) and (ii) above shall include: the type of solicitation, the MBE/WBE requirements in the published solicitation, the anticipated contract award date; the status of the solicitation and whether the contract will be exempt from MBE/WBE requirements.
- (b) The Board reserves the right to direct the Chief Executive Officer to submit proposed contracts valued between \$250,000 and \$500,000 to the Board for Board review and approval. The Board President must notify the Chief Executive Officer and the CPO at least two months prior to the contract being awarded that such contract must receive Board approval.
- (c) The CPO shall file a Delegated Authority Report with the Board by the last day of each month. The report shall be included on the Board's public agenda for its next regular public meeting, reviewed by the Board and accepted by the Board at that meeting. The report shall list the following:
 - (i) all contracts and purchase orders authorized and executed in the prior calendar month pursuant to the delegations of authority under Section 7-13;
 - (ii) all contracts automatically renewed in accordance with original board report;
 - (iii) all legal settlements entered and executed in the prior calendar month pursuant to the delegation of authority in Section 3-2 of these Rules;
 - (iv) all sole or single source contracts awarded with a value under \$500,000.00 per year;
 - (v) the term of each agreement if applicable;
 - (vi) the total cost of each agreement executed;
 - (vii) the type of solicitation used, where applicable; and,
 - (viii) MBE/WBE requirements contained in the executed agreement.