

State of Mississippi
Professional Education Curriculum
For County Purchase Clerks



Office of the State Auditor

Shad White, State Auditor
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Purchase Law Summary – Section II

PURCHASING

Purchasing Functions

DEFINITION. Purchasing is the procuring of materials, supplies, machines, equipment, tools, commodities and services required for the operation of an entity.

The purchasing department is the department entrusted with this procurement duty. The function of the purchasing department is to procure needed materials, supplies, machines, equipment, tools, commodities and services at an ultimate cost consistent with economic conditions surrounding the item being purchased; to safeguard the standard of quality, continuity of service and the company's reputation for fairness and integrity. Modern trends in legislation make it essential that the purchasing department also should watch carefully the enactment of new laws to insure the organization against their violation.

Procurement of goods through purchasing accounts for a significant part of the money spent by the average entity, the range among different industries being from about 20 percent to 90 percent. The financial aspect of purchasing, therefore, is obviously of great importance. Only by close and intelligent cooperation between financial and purchasing functions can proper financial control be effected.

MAJOR IMPORTANCE OF PURCHASING. Purchasing is of major importance because:

1. It is a primary function. Proper services cannot be provided unless materials being used are brought at an ultimate cost commensurate with the availability of funds.
2. Efficient operation of any organization depends upon proper turnover of investment. The purchasing department must arrange its purchases to insure receipt of proper commodities when wanted and in sufficient quantities to maintain provision of services; at the same time, it must not increase investment beyond that required to meet current needs and maintain a reasonable factor of safety.
3. By its close contacts with many companies and the general market, the purchasing department is in a position to advise its entity on:
 - a. New materials that may be used to advantage as substitutes for materials in use.
 - b. Changes in trends, in either prices or other factors, which will affect the entity.
 - c. Building up goodwill in the business world with which it deals.

DUTIES OF THE PURCHASING DEPARTMENT. The duties of the purchasing department cover all dealings with vendors. No contacts looking to the purchase of any goods or services should be made without cognizance of this department. Only with the consent of, and preferably in the presence of, some member of the purchasing department should other departments receive or confer with vendor's representatives.

Its principal duties, not necessarily listed in order of importance, are:

1. Locating and selecting sources of supply for materials or services required.
2. Interviewing suppliers' representatives and arranging conferences.
3. Requesting quotations and conducting negotiations.
4. Procuring materials and services when required.
5. Handling rejections and adjustments.
6. Maintaining records necessary for proper operation of its function.
7. Keeping informed on business trends, assembling and analyzing pertinent data on markets, supply, demand, price trends, etc.

PURCHASE ORGANIZATION

CENTRALIZATION OF PURCHASE. An axiom of purchasing is that the function should be under a single head whenever it can be centralized. The advantages of undivided responsibility, maintenance of consistent buying policies, and largest possible buying power as a means of exerting buying influence are great. With centralized purchasing, all records with regard to purchases are in one place and under one supervision authority. This works economy in both compilation and consultation of records, and permits quick and effective advantage to be taken of changing market conditions. It also points the way to standardization of specifications and elimination of slight differences in the material called for, which may be costly. It tends toward reduction of inventories that must be carried and consequent investment of money.

PURCHASING DEPARTMENT ORGANIZATION. The purchasing department organization in a small or medium-sized entity will consist of a purchase clerk, assistants to the purchasing clerk, a follow-up section, and a clerical force. In a large county, the buying division of an integrated purchasing department may consist of a purchasing clerk (director or manager of purchases, or general purchasing agent), buyers and a general service section (under the direction of a purchasing office manager). These may be subdivided into a correspondence unit, follow-up unit, price-checking unit, file unit, stenographic unit, and mailroom, each headed by a unit head responsible to the purchasing office manager. In such an organization, the purchasing office manager reports directly to the head of the purchasing department, and the service section handles all matters regarding purchase orders occurring subsequent to the placing of the order, but in cooperation with the interested buyer and subject to his direction as far as any action affecting vendor relations or purchasing policies is concerned.

PURCHASING CLERK. The purchasing clerk should be selected with careful regard for his ability, personality, versatility and breadth of vision. He or she must be, at one and the same time, an organizer and leader for the department, a worthy representative of the company in its contacts with other concerns, a keen student of business, a person capable of consideration and prompt decision, having balanced judgment and clear foresight. He or she should be of the executive, not the clerical, accounting, or mechanical type, although insight into these fields is an asset.

The recognition of the necessity for managerial ability in the purchase clerk was expressed by Benjamin F. Fairless as president of the United States Steel Company in the following statement:

We consider the job of purchasing to be one of the major functions of management, requiring expert leadership supported by a well-organized and efficiently operated purchasing department with specially trained and experienced personnel. We in the U.S. Steel look to our purchasing department to do more than the actual buying of goods and services. Their knowledge of world affairs gained from purchasing materials in many parts of the globe helps to keep us informed on international supply situations. In addition, through their contacts our operating people depend on our buyers to keep them informed of the development of new commodities and equipment. With these responsibilities we consider that our financial success is in no small measure dependent on the initiative, judgment and efficiency of our purchasing department.

RESPONSIBILITIES OF THE PURCHASE CLERK. In larger organizations, many responsibilities will be delegated to deputy or assistant purchase clerks.

1. Keeping up the county's standard of quality by his or her share in the choice of commodities used by approving materials specifications of commodities.
2. Organizing and directing the purchasing department and acting as sole head of its personnel.
3. Establishing purchasing policies for his or her department to execute.
4. Spending a large portion of the county's money and being responsible for its wise expenditure.
5. Interviewing salespersons to obtain up-to-date information, securing and comparing quotations, and placing orders.
6. Preserving the operation of the county's schedules without interruption.
7. Representing the county in one branch of its major contacts with other firms.
8. Maintaining the county's reputation for integrity and fair dealing by his or her method of negotiating with vendors for goods and adjustments.
9. Acting as an executive of the county and a partner in its councils; preparing or overseeing all general reports on purchasing presented to management; and taking part in interdepartmental conferences whether for planning, formulating policies or other purposes.

10. Keeping the county in step with progress and competition by research and open mindedness on new materials, equipment, etc.
11. Acting as final clerk, in the interest of economy, on all goods requisitioned, questioning need, quantity and quality specification.

PURCHASING POLICIES. The primary objectives of the policies of the purchasing department are threefold:

1. To procure the necessary materials, supplies, etc., of proper quality.
2. To procure them in time for requirements and have them delivered to the proper place.
3. To procure them at the lowest possible ultimate cost.

To state these factors as a single purchasing objective: The task of the purchasing department is to have on hand necessary goods to insure uninterrupted operations at the lowest possible expense. More briefly summarized: It is to obtain what is wanted, when it is wanted, where it is wanted, of the right quality and at the right cost.

LEGAL REQUIREMENTS OF PUBLIC PURCHASING. Since purchasing clerks cannot seek advice from their legal experts for each and every transaction into which they enter, they must be able to understand the basic legal requirements of each transaction and to know when to seek legal advice from the attorney for the board of supervisors.

The public authority to contract is usually based on specific statutes. In addition, purchase clerks as well as vendors all operate under the Law of Agency. Legally, an agent is one who acts for another with the authority of the latter. Purchase clerks are not generally buying or selling for themselves as individuals, but rather for the entity for which they work. Purchasing clerks can only operate within the limits of their authority. Most purchasing clerks have expressed authority that is limited to a maximum dollar amount. They also have implied authority--that which is necessary to do the job as stated in the expressed authority.

Any agreement that a purchase clerk enters into must have five elements for it to be a binding contract. The five elements are: (1) capacity of parties, (2) legality of object, (3) consideration, (4) mutuality of agreement and (5) mutuality of consent.

Capacity of parties refers to the fact that not all persons have the ability to make a contract. They must have the legal right to enter into the agreement.

Legality of object means that the contract is a binding legal document.

Consideration is basically whatever is given in exchange for something else. Therefore, consideration is present only when both parties intend an exchange, whether it is a promise exchanged for a promise or a promise exchanged for a promise to act.

Mutuality of agreement is necessary so that both parties have legal escape if a substantial disagreement occurs concerning the agreement.

Mutuality of consent implies that both parties to a contract have an obligation to do or to permit something to be done in consideration for the act of the other.

COUNTY CENTRAL PURCHASE SYSTEM

COUNTY CENTRAL PURCHASE SYSTEM (§ 31-7-101/127 Mississippi Code of 1972).

Since January 1989, each county in Mississippi has been required to operate with a central purchase system. Sections 31-7-113 and 7-7-211 *Miss. Code*, require the State Department of Audit to design and prescribe the forms and systems for the central purchase system. The central purchase system is administered by a county department of purchasing headed by a purchase clerk who, unless the chancery clerk is appointed by the board of supervisors as purchase clerk, is appointed by the county administrator, with the approval of the board of supervisors, in any county required to operate under a countywide system of road administration. In other counties, the board of supervisors appoints the purchase clerk (§31-7-101).

The purchase clerk must successfully complete the professional education program offered for purchase clerks within one (1) year after being appointed. Assistant purchase clerks are not required to attend or complete an education program (§31-7-101).

The purchase clerk must be bonded for \$75,000. All assistant purchase clerks must each be bonded for \$50,000 (§31-7-124).

The department of purchasing has sole responsibility to purchase all equipment, heavy equipment, machinery, supplies, commodities, materials and services used by any office or department of the county except for those offices or departments whose expenditures are not required by law to be approved by the board of supervisors (§§31-7-101, 103).

FUNCTIONS OF THE PURCHASE CLERK. The purchase clerk is the director of the department of purchasing. As such, the purchase clerk may:

1. Hire personnel necessary to operate the department of purchasing efficiently, subject to approval of the entity who hired the purchase clerk (administrator or board of supervisors) (§ 31-7-101).
2. Disapprove any purchase requisitions that, in his opinion, do not comply with the purchasing laws of the state (§31-7-101).
3. Initiate purchase orders for no more than \$5,000 following board and department policies and good business practices (§31-7-13a).
4. Under written board authority, accept the lowest and best competitive written bid for purchases greater than \$5,000 and not more than \$50,000 (§31-7-13).

PURCHASE REQUISITION GUIDELINES

1. Purchase requisitions (Exhibit 1) are issued by the department or office requesting commodities or services except for exempted purchases.
2. The purchase requisition must be signed by an authorized person in the requesting department who has been assigned the authority to obligate the department's budget.
3. The purchase requisition must be numbered, either by pre-numbering or at the time a purchase order is issued.
4. The purchase requisition must be prepared in triplicate. Copies 1 and 2 must be delivered to the purchase clerk. Copy 3 is to be filed in the department or office that made the request.
5. The purchase clerk matches copy 1 of the purchase requisition with copy 2 of the purchase order and forwards them to the clerk of the board of supervisors.
6. All purchase requisitions must be recorded in the purchase requisition/order docket. The purchase requisition docket may be maintained separately or jointly with the purchase order docket.
7. The purchase requisition form may be tailored to meet the individual needs of each county.
8. It is desirable that the same person not sign both the purchase requisition and receiving report.
9. It is important only for each appropriate department or file to receive a copy of the requisition form. The actual copy number of the form is not important but is provided for organizational purposes.

Related Purchase Order No.

PURCHASE REQUISITION

Any County

Any Town, Mississippi 39999

County Department or Office

Date

Date Needed

Budget to be charged:

Deliver to:

Quantity Requested	Description of items requested	(For Purchase Clerk's use only)

Approved:

Authorized Signature

PURCHASE ORDER GUIDELINES

1. Purchase orders (Exhibit 2) are prepared by the department of purchasing based upon purchase requisitions received except for exempted purchases.
2. The purchase order must be signed by the purchase clerk or a deputy purchase clerk.
3. The purchase order must be pre-numbered and prepared in quadruplicate. Copy 1 is delivered to the vendor. Copy 2 is matched with copy 1 of the purchase requisition and forwarded to the clerk of the board of supervisors. Copy 3 of the purchase order is matched with copy 2 of the purchase requisition and held in an active file to be matched with copy 3 of all related receiving reports. These documents are placed in a permanent file to be maintained in the purchasing department. Copy 4 of the purchase order is sent to the department that issued the purchase requisition.
4. All purchase orders must be recorded in the purchase requisition/order docket. The purchase order docket may be maintained separately or jointly with the purchase requisition docket.
5. Blank purchase orders must be safeguarded
6. The purchase order form may be tailored to meet the individual needs of each county. The quantity ordered, description of commodities or service, unit price and total amount of the purchase order must appear on the purchase order.
7. A detailed listing may be attached to the purchase order in lieu of re-listing each item on the purchase order. The attached detailed listing becomes a part of the purchase order for which the purchase clerk is responsible and any deviations from the listing should be noted. The items to be purchased should then be included in a general description on the face of the purchase order.
8. Monthly or open purchase orders have special rules. A monthly or open purchase order may be issued to any vendor in an amount not to exceed \$5,000 per vendor per calendar month or for amounts exceeding \$5,000 per month to any vendor for which the price of commodities to be purchased has been previously established by quotes, advertised bids, term bids, or DFA State contracts or ITS EPL contracts. Each individual delivery, load or shipment purchased must be properly requisitioned and received.
9. It is important only for each appropriate department or file to receive a copy of the purchase order form. The actual copy number of the form is not important but is provided for organizational purposes.

PURCHASE ORDER

Any County
Any Town, Mississippi 39999

Vendor

Deliver to:

Special Instructions:

State Contract No.
(if applicable)

Solicitation

Bid Date _____

Contract Date _____

Order Date _____

Quantity Ordered	Description of commodities or service	Unit Price	Total Amount

By:

Purchase Clerk

Instructions for Vendor:

1. The purchase order number shall be shown by the vendor on all related invoices, delivery memorandum, bills of lading and/or correspondence.
2. No unit price shall exceed the bid price.
3. A separate invoice for each purchase order shall be rendered immediately following shipment.
4. All prices, unless otherwise specified, are FOB destination with transportation charges prepaid. Ship prepaid, best way unless otherwise instructed. If shipment is made by common carrier, the original prepaid bill must accompany the invoice.
5. Commodities delivered on this order shall be subject to inspection and, if rejected, shall remain the property of the vendor.
6. All correspondence pertaining hereto shall be addressed to: Purchase Clerk
_____ County, P.O. Box _____, _____ City, MS _____ Zip, Phone _____.

RECEIVING REPORT GUIDELINES

1. Receiving reports (Exhibit 3) are required to be prepared for receipt of all commodities and services except for exempted purchases.
2. The receiving report must be signed by the receiving clerk or an assistant receiving clerk.
3. Receiving report forms may be pre-numbered.
4. The receiving report must be prepared in quadruplicate. Copy 1 is forwarded to the clerk of board of supervisors to be matched with copy 1 of the purchase requisition and copy 2 of the purchase order. Copy 2 of the receiving report is forwarded to the department that issued the purchase requisition (or inventory control clerk, is appropriate). Copy 3 is forwarded to the purchasing department to be matched with copy 2 of the purchase requisition and copy 3 of the purchase order. Copy 4 of the receiving report is retained by the receiving department. Distribution of receiving report copies is to be made by noon on the third regular business day after receipt of the commodities or services.
5. It is desirable that the same person not sign both the purchase requisition and receiving reports.
6. The receiving report may be tailored to meet the individual needs of each county.
7. A detailed listing may be attached to the receiving report in lieu of re-listing each item on the face of the receiving report. The attached detailed listing becomes a part of the receiving report for which the receiving clerk is responsible. Each item on the detailed listing must be initialed as checked, counted and received. A copy of the requisition cannot be used. The items received should then be included in a general description on the face of the receiving report.
8. It is important only for each appropriate department or file to receive a copy of the receiving report form. The actual copy number of the form is not important but is provided for organizational purposes.

RECEIVING REPORT

Any County
 Any Town, Mississippi 39999

Vendor _____

Date Received

TO BE FILLED IN BY PURCHASE CLERK:

Purchase Requisition No.

Purchase Order No.

Shipped From:

Shipped Via:

Quantity Received	Description of Commodities or Services Received

Received By:

Receiving Clerk, Inventory Custodian, or Deputy

Agrees with Purchase Order Except as Notes:

Clerk (Purchase Dept. or Accounting Dept.)

Instructions:

1. A receiving report shall be prepared and should be delivered (Copy 3) to the purchase clerk no later than noon on the third regular business day after receipt of the commodities or services.
2. Copy 1 shall be sent to the clerk of the board of supervisors.
3. Copy 2 shall be sent to the Requisitioning Department (or inventory control clerk, if applicable).
4. The clerk of the board shall attach the purchase requisition, purchase order, and receiving report to the vendor's properly itemized invoice prior to entry upon the docket of claims.
5. Copy 4 shall be retained in the office of the receiving clerk.

MONTHLY PURCHASE ORDERS

A monthly purchaser order may be issued in the following circumstances:

1. Monthly purchase orders may be issued to any vendor in amounts not to exceed \$5,000 per vendor per calendar month. As an alternative, the board of supervisors may designate a different, regular monthly period other than a calendar month in order to use monthly purchaser orders in consideration of the counties claims docket deadlines.
2. Monthly purchase orders may be issued for amounts over \$5,000.00 to any vendor for which the price of the commodities to be purchased has been previously established by quotation bids, advertised bids, term contract bids, State contracts approved by DFA, or contracts on the ITS Express Products Listing (EPL).

Each monthly purchase order shall be plainly marked on the face of the document as a “Monthly Purchase Order”

As has been the practice in the past, each individual delivery, load or shipment purchased must be properly requisitioned and received. With the exception of purchase orders issued after an emergency, all purchase orders shall be issued only upon receipt of a requisition. Monthly purchase orders must be issued with the appropriate quantity and price amounts. Quantity and amounts may be added to such purchase orders as additional requisitions are received.

All such purchase orders shall be invalid on the first calendar day of the month immediately following the month in which it was issued. If a different monthly period has been selected, monthly purchase orders shall be invalid on the first day of the next monthly period following the monthly period in which it was issued. At the end of the month, the monthly purchase orders may be totaled and closed. If a monthly purchase order issued for commodities or services in an amount not to exceed \$5,000 is filled prior to the end of the month, an additional monthly purchase order may issued for the remainder of the month if the bid requirements of Section 31-7-13(b), regarding the necessity for at least two (2) written quotation bids or the requirements of Section 31-7-13(c), regarding the necessity for advertised bids, are not violated.

As with any purchase order, purchases on a monthly purchase order must be made by the purchase clerk or deputy purchase clerk.

SPECIAL PURCHASING PROCEDURES AND TRANSACTIONS NOT APPLICABLE TO CENTRALIZED PURCHASING FOR COUNTIES

The following information is provided for reference and to clarify certain expenditures that are not subject to the centralized purchasing system for counties. Those persons involved with county purchasing should familiarize themselves with the actual law, Sections 31-7-1 et. seq., Miss. Code Ann. (1972). In using this listing, one should always refer to the code sections indicated in order to be aware of all special requirements and procedures involved. All reference are to the MISSISSIPPI CODE OF 1972, ANNOTATED, as amended. Unless specifically noted, solicitation of bids, purchase requisitions, purchase orders, and receiving reports are required in each case.

1. In addition to the exceptions listed in the Purchase Law Update, § 31-7-13, no solicitation of bids is required for the following:

Acquisition of real property (§ 19-7-1) However, an appraisal is generally required and the county must make the owner aware of the appraised value (§ 43-37-3).

Purchases of not more than \$1,500 (§ 31-7-103): no bid, purchase requisition, purchase order or receiving report is required. Must have a signed receipt or signature on invoice. Supervisors in unit system counties are prohibited from making purchases, but supervisors in beat system counties, county administrators, and road managers are allowed to make purchases of not more than \$1,500 (§ 31-7-119).

2. When an emergency purchase has been properly authorized by the board of supervisors or its designee, the related purchase requisition, purchase order, and receiving report may be prepared and processed within three (3) working days of the emergency. The purchase clerk and receiving clerk may sign the appropriate forms based on a written certification from the clerk of the board of supervisors or emergency purchase designee, as appropriate, that such purchase was made and the related commodities or services were received in connection with an emergency purchase.
3. Purchase orders for repairs must specify an estimate of the cost of repairs for the purchase order amount.
4. There are certain expenditures by a county that are not considered purchases, and accordingly are not the responsibility of the department of purchasing. These transactions do not require purchase requisitions, purchase orders and receiving reports as these forms are not appropriate for these types of expenditures. Other types of documents support payment of these transactions.

They include:

- a. Contracts with utility providers (telephone, gas, water, electricity, etc.)
- b. Transportation of persons or things (freight, ambulance service, wrecker service, etc.)
- c. Postage (stamps, mailing costs, etc.)
- d. Reimbursable official travel expenses (food, lodging, repairs, etc.), prepaid by hotel/motel reservations and prepaid meeting or conference registration expenses.

- e. Debt service and installment payments.
- f. Payments for contracts (such as public construction or service contracts) which were initiated, negotiated and acknowledged as complete in the minutes of the board of supervisors
- g. Payments for professional services and other similar services (CPAs, attorneys, barbers, temporary personal services, temporary personnel services, official's fees, etc.)
- h. Legal advertisements and public notices
- i. Standing orders for publications and membership dues
- j. Prescription drugs and related medical items such as eye glasses, dentures, hearing aids, etc.
- k. Insurance premium and deductibles (officials' bonds, health, liability, etc.)
- l. Settlement of court ordered and negotiated legal claims
- m. budgeted appropriations, legal donations and rewards
- n. Expenditures from a legally adopted petty cash fund
- o. Expenditures using a legally adopted credit card or fuel access card
- p. Maintenance and repair contracts
- q. Transfers or purchases of personal property or services between governmental agencies
- r. Rooms and food for jurors
- s. Meals for prisoners participating in county work programs
- t. Government taxes, fees and penalties

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