

**THE STATUE OF LIBERTY-ELLIS ISLAND FOUNDATION, INC.  
PROCEDURES MANUAL**

**SOP# - PURCHASING AND CONTRACTING (Policy 2-1)**

**Competition Required:**

One of the basic requirements of public purchasing is to obtain competition by soliciting multiple quotes/bids whenever possible. Purchase requisitions over \$1,000 and up to \$5,000 usually require informal bidding.

The Foundation shall follow good business practices in obtaining competitive prices that shall include the following minimum standards:

Up to \$5,000 – Verbal Quotations – approval of department Director

\$5,000 to \$10,000 – Three Written Quotations approval of department Director

\$10,000 to \$100,000 – Three Written Quotations and approval of the President or Senior Vice President.

\$100,000 to \$250,000 – Three Written Quotations and approval of the President and review and consent by the Chairman of the Board of Directors.

Over \$250,000 – Three Written Quotations and approval of the Executive Committee or the Board of Directors.

**Same Vendor Aggregate Contracts:**

The sum of the “gross” amounts of contracts with the same vendor over a “moving” twelve month period should meet the above standards.

**Preferred Contractors:**

Use of a vendor from the National Park Service “approved” vendor list should follow the above guidelines for contracts above \$25,000. Certain exceptions can be made with the acknowledgement and approval of an Officer.

**Sole Source:**

A good’s or service’s “uniqueness” alone cannot qualify the producer or supplier of the good or service as a “sole service” of a good or service; instead, to so qualify, the good or service offered must be unique; that uniqueness must be substantially related to the intended purpose, use and performance of the good or service sought; the entity seeking to be declared a “sole source” must show that other similar goods or services cannot perform the desired objectives of the entity seeking the goods or services.

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**Functional use of the Purchase Order:**

Items which do not require competitive bidding are:

- a. Utilities such as telephone, electric power, and natural gas services.
- b. Public books and maps, periodicals, technical pamphlets, subscriptions, dues, conferences.
- c. Services for the maintenance or servicing of equipment by the manufacturer or authorized servicing agent of that equipment when the maintenance or servicing can best be performed by the manufacturer or authorized service agent, or which such a contract would otherwise be advantageous to the Foundation.
- d. Monthly or such payments on an existing lease, contract or purchase order that has been approved prior to payment for such services.

**Contracting for work on Liberty or Ellis Island:**

The Contractor must understand certain special requirements expected of them at the time of bidding for work on Liberty or Ellis Islands:

- a. Insurance requirements are referred to in the Memorandum of Agreement with the National Park Service (NPS). Evidence of insurance must be obtained prior to work on the islands and a Certificate of Insurance must include not only the NPS but the Foundation as additional insured for work on these islands. These requirements include on site sub-contractors.
- b. Access to the work site(s) is subject to the National Park Service rules and regulations.

**Use of Independent contractors or consultants:**

When entering into an agreement for personal services of a person and this person is not represented by a “corporate name”, but as an individual, certain steps need to be taken to ensure that this arrangement is not for an “employee” but is a “independent consultant”. Under the various federal and state laws and regulations this issue can be complex so a review of the circumstances should be sought with an Officer.

Examples of determination of a “consultant” versus a “employee” include:

If a person is doing work that is supervised, in space that we provide, with hours that we set, with tools that we supply, this person should probably be classified as an employee.

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For Workmen Compensation issues, if a person working on Liberty or Ellis Island cannot supply proof of insurance as required (such as Workmen Compensation/General Liability Insurance) then they MUST be classified as an employee.

**Tax Identification Required:**

All contractors or consultants providing personal services must submit to the Foundation either 1) a W-4 for the current year or 2) W-9 Payer's Request for Taxpayer Identification Number and Certification. This is especially true if the contractor is not represented by a "Corporate or Partnership" name.

**Sales and Use Tax Exempt/Purchase for Re-sale:**

The Foundation is exempt from sales and use tax in New York and New Jersey for material and services purchased for the use of the Foundation. Items purchased for resale (inventory for resale) require a different certificate than the 'exempt' certificate.

**Ethical Standards:**

Foundation policies prohibit from entering into any purchase agreements for personal purchases on behalf of employees. All goods and services purchased remain the property of the Foundation until consumed or disposed of in proper order.

In order to avoid potential "conflict of interest" the Foundation's policy is not to purchase from Foundation employees. Any request to purchase materials or services from Foundation employees or volunteers (including the Board of Directors) or from companies in which an employee or volunteer may have an interest must be sent through the Audit Committee of the Foundation for approval.

When competition is received during the bid solicitation phase of an acquisition, the requesting department will normally participate in the evaluation process.

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**Standards:**

- a. Give first consideration to the objectives and policies of the Foundation.
- b. Strive to obtain the maximum value for each dollar of expenditure.
- c. Decline personal gifts and gratuities.
- d. Grant all competitive suppliers equal consideration insofar as state or federal statute and Foundation policy permit.
- e. Conduct business with potential and current suppliers in an atmosphere of good faith, devoid of intentional misrepresentation.
- f. Demand honesty in sales representation whether offered through the medium of a verbal or written statement, an advertisement, or a sample of the product.
- g. Receive consent of originator of proprietary ideas and designs before using them for competitive purchasing purposes.
- h. Foster fair, ethical and legal trade practices.