

**THE TENNESSEE DEPARTMENT OF HUMAN SERVICES
TENNESSEE BUSINESS ENTERPRISES**

**CHAPTER 1240-6-17
PROCUREMENT REQUIREMENTS**

TABLE OF CONTENTS

1240-6-17-.01	General	1240-6-17-.04	Merchandise Purchases
1240-6-17-.02	Equipment Purchases	1240-6-17-.05	Procurement of Non-Tangible Goods and Services
1240-6-17-.03	Construction / Renovations	1240-6-17-.06	Purchases Recommended by the Committee of Blind Vendors

1240-6-17-.01 GENERAL

- (1) It is the responsibility of the department to administer Tennessee Business Enterprises in accordance with all applicable state and federal laws, rules, and regulations. As the caretaker of funds levied against the licensed blind vendors and funds received from unassigned vending locations, the department must ensure that such funds are accounted for and expended in accordance with acceptable practices.
- (2) T.C.A. 71-4-403 exempts TBE from most purchasing requirements normally required of a state entity. This exemption does not relieve the department from being a good steward of the funds. The department must ensure that goods and services are secured at the best price practical taking into consideration all factors. The department will develop internal policies to ensure that goods and services are purchased at a fair and reasonable price.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14. **Administrative History:** Original rule filed April 9, 2007; effective June 23, 2007.

1240-6-17-.02 EQUIPMENT PURCHASES

- (1) The department will purchase necessary equipment using funds collected pursuant to 1240-6-9-.01 and 1240-6-14-.02 and federal vocational rehabilitation dollars if such federal funds are available. Written bids may not be required when purchasing equipment; however, TBE staff has an obligation to ensure that purchases are made in a cost effective manner. In making decisions about which equipment to purchase, the staff person shall consider costs as well as delivery time, quality, past performance of the equipment and/or supplier, trade-in allowance, decor if machines are being matched with other machines in a location, and the preferences of the licensed blind manager who will be servicing the machines.
- (2) Although written bids are not required, the department may elect to solicit annual price quotes from vending machine distributors. TBE shall treat these price quotes as bids and will purchase the least expensive piece of equipment when practical if it meets the needs of the facility and the licensed blind manager.
- (3) Purchases \$1,000 and Less– TBE Consultant / Specialist may make these purchases without prior supervisory approval and without the need to solicit competitive bids.
- (4) Purchases from \$1,001 up to and including \$5,000 – TBE Consultant / Specialist must obtain supervisory and the department’s Fiscal Services approval before making purchases. Written bids are not required except that any price quotes received pursuant to subsection (2) above will be considered when making purchasing decisions.

(Rule 1240-6-17-.02, continued)

- (5) Purchases Over \$5,000 – Any purchase that exceeds \$5,000 requires prior supervisory and Fiscal Services approval. Competitive bids will be required in accordance with the TBE's internal policies and procedures.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14. **Administrative History:** Original rule filed April 9, 2007; effective June 23, 2007.

1240-6-17-.03 CONSTRUCTION AND RENOVATIONS

- (1) When installing a new vending facility or renovating an existing vending facility, the department may be required to perform construction. The department shall ensure that any construction work is done at competitive prices. The same requirements as specified in 1240-6-17-.02 above shall apply to any construction projects.
- (2) Construction projects on any state property may require approval by the State Building Commission. The department must comply with the requirements of the State Building Commission.
- (3) The architect responsible for the construction project may solicit bids for such project on behalf of the department.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14. **Administrative History:** Original rule filed April 9, 2007; effective June 23, 2007.

1240-6-17-.04 MERCHANDISE PURCHASES

- (1) It is the responsibility of the department to provide the initial merchandise inventory for all vending facilities. When purchasing merchandise for a vending facility, the TBE Consultant / Specialist must secure supervisory and Fiscal Services approval regardless of the amount of merchandise being procured. Bids shall not be required. All merchandise shall be purchased from reputable wholesale distributors.
- (2) If no wholesale distributor is available or willing to accept the department's payment authorization, merchandise may be purchased from a licensed blind manager provided the manager sells the product at his/her actual cost.
- (3) The amount of merchandise to be purchased for a vending facility shall be made in accordance with policies contained in the Operations Manual and shall be based upon projected sales volume.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14. **Administrative History:** Original rule filed April 9, 2007; effective June 23, 2007.

1240-6-17-.05 PROCUREMENT OF NON-TANGIBLE GOODS AND SERVICES

- (1) In order to ensure an effective and efficient operation, the department may choose to procure certain non-tangible goods and services that can be provided better and perhaps more cost effectively by third party private sector vendors. Competitive bids are not always practical. The department shall generally negotiate a fee or pay the standard and customary rate for the service being provided.
- (2) The department, after active participation by the Committee of Blind Vendors, may elect to hire its own technicians to provide vending machine maintenance and repair services or

(Rule 1240-6-17-.05, continued)

procure the services from private sector vendors. If it elects to purchase such services, the department will establish agreements with local companies who have an expertise in repairing vending machines. These agreements shall include an agreed upon hourly rate, mileage rate not to exceed the amount authorized by Comprehensive State Travel Regulations, and the amount to be paid for parts. At least once every five years, the department shall solicit bids from companies to ensure that costs are competitive. Companies expressing an interest in providing such services will be interviewed by department staff and local representatives of the Committee of Blind Vendors before a private sector vendor is selected to provide the service. Price shall not be the only factor considered when selecting the repair vendor. The department may also consider the company's record of performance, the qualifications of its vending machine technicians, its financial resources, stability of management, and other such factors.

- (3) When a piece of equipment other than a vending machine is in need of repair, the department shall contact a company that specializes in such repairs. For example, if a freezer is broken, a refrigeration company will be contacted; if the air conditioning goes out, a heating and air contractor will be contacted; and if there are plumbing issues, a licensed plumber shall be contacted. Whereas bidding individual repair jobs is not practical, the department shall pay the standard and customary fee that the company charges all customers for such services.
- (4) The department may choose to incorporate equipment moves into its agreements with the companies providing the vending machine repair services since most of the machines being moved are vending machines. If not, the department will solicit three bids from reputable companies willing to provide the service on an hourly rate. Bids shall be good for a predetermined time period.
- (5) On certain construction or renovation projects, the department may have to secure the services of an architect. The department will pay the hourly rate that has been established by the State Building Commission.
- (6) From time to time, the department may be required to procure other services on behalf of the program. The department may either pay the standard and customary fee associated with a service or negotiate agreements that ensure that quality services are being provided at fair and competitive prices.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14. **Administrative History:** Original rule filed April 9, 2007; effective June 23, 2007.

1240-6-17-.06 PURCHASES RECOMMENDED BY THE COMMITTEE OF BLIND VENDORS

- (1) The Committee of Blind Vendors shall be granted consideration in major administrative decisions, including, but not limited to, funds expended from those levied against licensed blind managers or received in commissions from unassigned locations. This includes making recommendations on the purchase of certain goods and services. When using non-appropriated funds, the department may abide by the recommendations of the Committee of Blind Vendors without the necessity of soliciting written bids provided the Committee considers cost when making its recommendation.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14. **Administrative History:** Original rule filed April 9, 2007; effective June 23, 2007.