

Purchasing and Bidding

General Procedures:

The purchasing procedures of the District shall comply with all applicable laws and regulations of the State and Commissioner of Education. District purchasing procedures will be specifically defined in the Purchasing and Bidding policies.

A statement of “general conditions” (link), as approved by the Board of Education, and as may be amended from time to time, shall be included with all specifications submitted to suppliers for their bids. These general conditions shall be incorporated in all contracts awarded for the purchase of materials, equipment and supplies.

No Board member, officer, or employee of this school district shall be interested financially in any contract entered into by the District.

Bidding Procedures:

Competitive Bidding Required: Method of Determining Whether Procurement is Subject to Competitive Bidding

The district will first determine if the proposed procurement is a purchase contract or a public works contract.

- **Purchase Contract:** a contract involving the acquisition of commodities, materials, supplies or equipment.
- **Public Works Contract:** a contract involving services, labor or construction.

The district will then determine whether the amount of the annual procurement is above the applicable statutory monetary threshold. The district will also determine whether any exceptions to the competitive bidding requirements exist.

General Procedures for Competitive Bidding when it is Required

All purchase contracts for materials, equipment and/or supplies involving an annual expenditure of more than \$20,000 and all public works contracts involving expenditures of more than \$35,000 shall be awarded on the basis of public advertising and competitive bidding.

- Similar procurements to be made in a fiscal year, commencing on the date of the purchase, will be grouped together (aggregated) for the purpose of determining whether a particular item must be bid.
- Purchases of commodities, services or technology shall not be artificially divided and any change to or renewal of a discretionary purchase shall not be permitted if the change

would bring the reasonably expected aggregate amount of all purchases of the same commodities, services or technology from the same provider within the fiscal year commencing on the date of the first purchase to an amount greater than the statutory threshold amount.

- When purchases or annual anticipated purchases for items or categories of items reach the statutory threshold amounts, bid specifications shall be developed and competitive bidding conducted.

The Board also authorizes the award of purchase contracts on the basis of “best value” when it is in the best interests of the school district. "Best value" means optimizing quality, cost and efficiency. The basis for best value shall reflect, whenever possible, objective and quantifiable analysis and may also take into consideration small businesses or certified minority-owned or women-owned businesses.

When the school district determines to award a purchase contract on the basis of “best value,” the bid specifications shall identify the criteria and rating system to be utilized in making a “best value” determination. The Purchasing Agent will maintain documentation reflecting the criteria and rating system, as well as the evaluation of each bidder’s bid in connection with same.

Opening and Recording Bids; Awarding Contracts

The Purchasing Agent is authorized to open and record bids. Contracts will be awarded by the Board of Education to the lowest responsible and responsive bidder (as recommended by the Purchasing Agent or the District Administration), who has furnished the required security after responding to an advertisement for sealed bids.

Electronic Bids

The Board authorizes the receipt of sealed bids for purchase contracts in electronic format as long as such bids are in compliance with General Municipal Law §103(1), specifically proper documentation, authentication, security and confidentiality of bids.

Documentation of Competitive Bids

The district will maintain proper written documentation setting forth the method used to determine whether the procurement is a purchase or a public works contract. Proper written documentation will also be required when a contract is not awarded to the vendor submitting the lowest bid, setting forth the reasons therefore. That vendor may be given an opportunity to defend his/her product and/or reputation before the Board of Education.

All contracts which require public advertising and competitive bidding shall be awarded by resolution of the board. Recommendations for the award of all such contracts shall be submitted to the board by the Superintendent of Schools or his/her designee.

Requests for Proposals (RFPs)

The district will prepare a well-planned RFP which will contain critical details of the engagement, including the methods which it will use in selecting the service provider. RFPs must be maintained in the business office by the Purchasing Agent for six (6) years after final payment under contract or completion of purchase.

The district will provide the RFP to a number of professionals (e.g., architects, engineers, accountants, lawyers, underwriters, fiscal consultants, etc.) and request that they submit written proposals. The RFPs may include negotiations on a fair and equal basis. The RFPs and evaluation of such proposals will consider price plus other factors such as:

- the special knowledge or expertise of the professional or consultant service;
- the quality of the service to be provided;
- the staffing of the service; and
- the suitability for the district's needs.

The district may first locate prospective qualified firms by using some or all of the following methods:

- advertising in trade journals; or
- checking listings of professionals;
- advertising in the newspaper; or
- making inquiries of other districts or other appropriate sources.

Purchasing when Competitive Bidding is not Required:

Goods and services which are not required by law to be procured by the school district through competitive bidding will be procured in a manner so as to ensure the prudent and economical use of public monies, in the best interests of the taxpayers, and to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances.

The following are exceptions to competitive bidding:

1. Emergencies where time is a crucial factor, including where the situation arises from an accident or unforeseen occurrence or conditions; school district buildings, property or the life, health or safety of an individual on school property is affected; or the situation requires immediate action which cannot await competitive bidding.

The Board of Education will pass a resolution to declare an emergency prior to the purchase and/or commencement of work, if feasible. When it is not feasible, the Superintendent or designee must be notified that an emergency situation exists. Approval to make necessary purchases and/or provide the necessary services must be obtained from the Superintendent or designee. The Superintendent will notify the Board of Education

of the emergency and ensure the required documentation exists and is maintained in the business office.

2. Procurements for which there is no possibility of competition (sole source items).
Written documentation will be maintained to include, among other things, the unique benefits of the item or service purchased as compared to other items available in the marketplace; that no other item or service provides substantially equivalent or similar benefits; and that considering the benefit received, the cost of the item is reasonable. In addition, the district will document that there is no possibility of competition for procurement of the goods or services.
3. Purchases such as surplus or second-hand items from governmental entities, certain food and milk items, or goods and services from municipal hospitals. Documentation will be maintained that includes market price comparisons (verbal or written quotes) and the name of the government agency.
4. Purchasing articles manufactured in state correctional institutions.
5. Purchasing services from agencies for the blind and severely disabled.
6. Purchasing through or “piggybacking” onto the contract of another governmental entity, including through purchasing cooperatives. These contracts do not require written or verbal proposals. Written documentation will be maintained to include:
 - Contracts let by the United States or any agency thereof - the contract number and name of the governmental agency will be maintained;
 - New York State Office of General Services (OGS) - written documentation of the OGS contract award including the OGS award number and date;
 - State, county, political subdivision (including school districts) for which the school district is eligible for participation – written documentation from the state, county, or political subdivision concerning the terms of use, compliance with competitive bidding, and scope of the contract.
7. Procuring goods and/or services pursuant to participation in a cooperative purchasing consortium, with other schools districts and government entities when feasible. Compliance with competitive bidding must be reviewed. Participation must be authorized by Board resolution when applicable.
8. Professional services or services requiring special or technical skills, training or expertise, such as legal and medical services, property appraisals, engineers and architects.

Contracts Combining Professional Services and Purchase

In the event that a contract combines the provision of professional services and a purchase, the district, in determining the appropriate monetary threshold criteria to apply to the contract, will determine whether the professional service or the purchase is the predominant part of the transaction.

Purchases/Public Works: Methods of Competition to be used for Non-Bid Procurements; Documentation to be Maintained

The district will require the following methods of competition be used and sources of documentation maintained when soliciting non-bid procurements in the most cost-effective manner possible:

Purchase Contracts or Purchase Orders up to \$20,000

1. Contracts or Purchase Orders under \$5,000 in the aggregate during a fiscal year: No quotes required - selection of vendor is at the discretion of the District Purchasing Agent. No purchases or contracts from the same vendor may exceed \$5,000 in the aggregate in a fiscal year following this process.
2. Contracts or Purchase Orders from \$5,000 to \$9,999 in the aggregate during a fiscal year: Three verbal quotes. No purchases or contracts from the same vendor may exceed \$9,999 in the aggregate in a fiscal year following this process. Documentation will include notations of verbal quotes.
3. Contracts or Purchase Orders from \$10,000 to \$20,000 in the aggregate during a fiscal year: Three written quotes. No purchases or contracts from the same vendor may exceed \$20,000 in the aggregate in a fiscal year following this process. Documentation will include the written quotes.

Verbal quote records and written quotes must be maintained in the business office by the Purchasing Agent for six (6) years after final payment under contract or completion of purchase.

Contracts or purchase orders that exceed \$20,000 must go through the bidding process or must be approved as an exception to the bidding process (such as agreements with government entities or emergency work) by the Superintendent.

Public Works Contracts or Purchase Orders up to \$35,000

1. Contracts or Purchase Orders under \$5,000 in the aggregate during a fiscal year: No quotes required - selection of vendor is at the discretion of the District Purchasing Agent. No purchases or contracts from the same vendor may exceed \$5,000 in the aggregate in a fiscal year following this process.

2. Contracts or Purchase Orders from \$5,000 to \$9,999 in the aggregate during a fiscal year: Three verbal quotes. No purchases or contracts from the same vendor may exceed \$9,999 in the aggregate in a fiscal year following this process. Documentation will include notations of verbal quotes.
3. Contracts or Purchase Orders from \$10,000 to \$35,000 in the aggregate during a fiscal year: Three written quotes. No contracts from the same vendor may exceed \$35,000 in the aggregate in a fiscal year following this process. Documentation will include the written quotes.

Public works contracts or Purchase Orders that exceed \$35,000 must go through the bidding process or must be approved as an exception to the bidding process by the Superintendent.

Professional Services and Consultants:

The Board of Education shall utilize Requests for Proposal (RFPs) for the procurement of professional services whenever the cost of such services exceeds an annual expenditure of \$40,000. The Purchasing Agent is authorized to approve expenditures in excess of the initial purchase order, for good cause based upon contractual terms or those specified on the original purchase order, by an amount not to exceed \$5,000 in the aggregate, except with respect to special education tuition or related services contracts, where actual costs of services may cause the expenditure of an additional amount to be required. When project specific RFPs have been approved by the Board of Education and the project period needs to be extended beyond the duration of the contract term, the Board must be notified by the Purchasing Agent of the need for the extension and may direct the issuance of a new RFP or a Request for Quotes (RFQs) or Board approval of a subsequent contract with the original professional services provider. **No additional funds may be expended or services performed prior to Board of Education approval.**

RFPs for professional service providers retained annually by the Board shall be re-issued at least every five years. Contracts shall be awarded to the professional service provider deemed by the Board to be best able to provide the specialized skill, expertise, and professional judgment required, at a fiscally prudent and reasonable price.

The Board of Education recognizes that there may be some professional services in excess of \$40,000 that are so unique that no other service provider offers substantially equivalent or similar services. In such a case, the Board of Education shall consider the recommendation of the Superintendent, based upon documentation provided by the requesting party that sets forth the unique benefit of such service, including the reasonableness of the cost. The Board may approve such service by resolution, reflecting that this exception applies.

Contractual agreements with providers of professional services that exceed \$10,000 shall be approved by the Board at Board meetings after receiving the recommendation of the Superintendent. The Superintendent is authorized to execute professional services and consultant

contracts under \$10,000 in the aggregate and will provide a report to the Board of all such contracts at the next Board meeting. Professional services that will cost more or could foreseeably cost more than \$40,000 in the aggregate shall require a written contract. Those services that will cost less than \$40,000 may be based upon an engagement letter or response to an RFQ that sets forth the scope of services, the time of performance and the rates for services that shall be incorporated within the terms of the purchase order for such services. Should invoicing on the contract awarded through the RFP or RFQ exceed the amount approved by the Board of Education by \$5,000, the Board of Education will be notified in writing by the Purchasing Agent to determine if additional expenditures will be authorized.

Methods of Documentation

Verbal Quotations: The Purchasing Agent will maintain the telephone log or other record that sets forth, at a minimum, the date, item or service desired, price quoted, name of vendor, and name of vendor's representative. Verbal quote records must be maintained in the business office by the Purchasing Agent for six (6) years after final payment under contract or completion of purchase.

Written Quotations: The Purchasing Agents will maintain the written quotes from vendors including, at a minimum, the date, description of the item or details of service to be provided, price quoted, name of contact. The district will maintain documentation consistent with Exhibit E.1 that will include advertisements, specifications and the awarding resolution. Alternatively, written forms will serve as documentation, if formal bidding is not required. Written quotes must be maintained in the business office by the Purchasing Agent for six (6) years after final payment under contract or completion of purchase.

Reasonable attempts should be made to obtain the required number of quotes. In cases where less than the required number of quotes are received because of the lack of interest on the part of vendors, or the number of vendors dealing in the product is limited, the Purchasing Agent shall have the discretion after consultation with the Assistant Superintendent for Business to award the order based on the best quote from those that have been received.

Procurements from Other than the “Lowest Responsible Offer: The district will provide justification and documentation of any contract awarded to an offer or other than the lowest responsible dollar offer, or setting forth the reasons why such award is in the best interests of the district and otherwise furthers the purposes of Section 104-b of the General Municipal Law.

COMPETITIVE BIDDING PROCEDURES

Opening and Recording Bids; Awarding Contracts

The Purchasing Agent will be authorized to open and record bids. Contracts will be awarded by the Board of Education to the lowest responsible bidder (as recommended by the Purchasing

Agent or the District Administration), who has complied with the bid specifications and furnished the required security after responding to an advertisement for sealed bids.

Documentation of Competitive Bids

The district will maintain proper written documentation which will set forth the method in which it determines whether the procurement is a purchase or a public work contract. Proper written documentation will also be required when a contract is not awarded to the vendor submitting the lowest quote, setting forth the reasons therefore. That vendor may be given an opportunity to defend his product and/or reputation before the Board of Education.

Purchase of Instructional Materials

In accordance with law, the district shall give a preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats (i.e., any medium or format for the presentation of instructional materials, other than a traditional print textbook, that is needed as an accommodation for a disabled student enrolled in the district, including but not limited to Braille, large print, open and closed captioned, audio or an electronic file in an approved format.)

Leases of Personal Property

In addition to the above-mentioned competitive bidding requirements, Section 1725 of the Education Law requires that the district will be subject to competitive bidding requirements for purchase contracts when it enters into a lease of personal property. The district will maintain written documentation such as quotes, cost-benefit analysis of leasing versus purchasing, etc. Any legal issues regarding the applicability of competitive bidding requirements will be presented to the school attorney for review.

Transportation

Transportation contracts may be solicited through competitive bidding or through a Request for Proposals whenever authorized by law, but once awarded, may be extended annually as specified in General Municipal Law. Any multi-year extension of a transportation contract requires voter approval.

Standardization

Upon the adoption of a resolution by a vote of 3/5ths of the Board stating that, for reasons of efficiency or economy, there is a need for standardization, purchase contracts for a particular type or kind of equipment, material or supplies of more than \$20,000 may be awarded to the lowest responsible bidder furnishing the required security after advertisement for sealed bids. The resolution must contain a full explanation of the reasons for its adoption.

The unintentional failure to fully comply with the provisions of Section 104-b of the General Municipal Law or the school district's policies regarding procurement will not be grounds to

void action taken nor give rise to a cause of action against the school district or any officer or employee of the school district.

All school district policies regarding the procurement processes will be reviewed by the Board of Education at least annually.

Cross-Ref: Policy 6090 (Purchasing Authority)

Ref: Education Law §§305(14); 409-i; 1604(29-a); 1709(4-a), (9), (14), (22); 2503(7-a); 2554(7-a)
General Municipal Law §§102; 103; 103-g; 104; 104-b; 109-a; 800 et seq.
State Finance Law §§97-g(3), (4), (5); 163; 163-b; 165-a
County Law §408-a(2)
8 NYCRR Part 114

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