

PURCHASING REGULATION

The following sets forth the procedures for the procurement of goods and services by the district:

I. Definitions

Purchase Contract: a contract involving the acquisition of commodities, materials, supplies or equipment

Public Work Contract: a contract involving services, labor or construction

II. General Municipal Law

The General Municipal Law requires that purchase contracts for materials, equipment and supplies involving an estimated annual expenditure exceeding \$20,000 and public work contracts involving an expenditure of more than \$35,000 will be awarded only after responsible bids have been received in response to a public advertisement soliciting formal bids.

Similar procurements to be made in a fiscal year will be grouped together for the purpose of determining whether a particular item must be bid.

III. Competitive Bidding Required**A. Method of Determining Whether Procurement is Subject to Competitive Bidding**

1. The Purchasing Agent will first determine if the proposed procurement is a purchase contract or a contract for public work.
2. If the procurement is either a purchase contract or a contract for public work, the Purchasing Agent will then determine whether the amount of the procurement is above the applicable monetary threshold as set forth above.
3. The district Purchasing Agent will also determine whether any exceptions to the competitive bidding requirements (as set forth below) exist.

B. Contract Combining Professional Services and Purchase

In the event that a contract combines the provision of professional services and a purchase, the Purchasing Agent, 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.

C. Opening and Recording Bids; Awarding Contracts

The Purchasing Agent, or his/her designee, will be authorized to open and record bids. Contracts will be awarded to the lowest responsible bidder (as recommended by the Purchasing Agent), who has furnished the required security (if required) after responding to an advertisement for sealed bids.

D. Documentation of Competitive Bids

The Purchasing Agent will maintain proper written documentation which will set forth the method in which it determined 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. A quote which exceeds the bid limit will be awarded only when such award is in the best interests of the district and otherwise furthers the purposes of section 104-b of the General Municipal Law. The Purchasing Agent will provide justification and documentation of any such contract awarded.

E. 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.

Documentation: The Purchasing Agent 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.

IV. Exceptions to Competitive Bidding Requirements

The district will not be subject to competitive bidding requirements when the Board of Education faces an emergency situation as defined under General Municipal Law Section 103(4), where time is a crucial factor as determined by the Board of Education (or its designee).

A. emergency situations where:

1. the situation arises out of an accident or unforeseen occurrence or condition;
2. a district building, property, or the life, health, or safety of an individual on district property is affected; or
3. the situation requires immediate action which cannot await competitive bidding.

However, when the Board passes a resolution that an emergency situation exists, the Purchasing Agent will make purchases at the lowest possible costs, seeking competition by informal solicitation of quotes or otherwise, to the extent practicable under the circumstances.

Documentation: The Purchasing Agent will maintain records of verbal (or written) quotes;

- B. when the district purchases surplus or second-hand supplies, materials or equipment from the federal or State governments or from any other political subdivision or public benefit corporation within the State.

Documentation: The Purchasing Agent will maintain market price comparisons (verbal or written quotes) and the name of the government entity;

- C. when the Board separately purchases eggs, livestock, fish and dairy products (other than milk), juice, grains and species of fresh fruits and vegetables directly from producers or growers. The amount expended in any fiscal year by the district may not exceed an amount equal to twenty-five cents multiplied by the number of days in the school year multiplied by the total enrollment of the district.

Documentation: The Purchasing Agent will maintain documentation consistent with sections 114.3 and 114.4 of the Regulations of the Commissioner of Education;

- D. when the district purchases goods, supplies and services from municipal hospitals under joint contracts and arrangements entered into pursuant to section 2803-a of the Public Health Law.

Documentation: the Purchasing Agent will maintain the legal authorization, board authorization and market price comparisons; or

- E. when there is only one possible source from which to procure goods or services required in the public interest.

Documentation: The Purchasing Agent will maintain written documentation of the unique benefits of the item or service purchased as compared to other items or services available in the marketplace; that no other item or service provides substantially equivalent or similar benefits; and that, considering the benefits received, the cost of the item or service is reasonable, when compared to conventional methods. In addition, the documentation will provide that there is no possibility of competition for the procurement of the goods.

- F. where local convenience is deemed by the Board (or its designee – *Purchasing Agent, Deputy Purchasing Agent, Superintendent or Assistant Superintendent*) to be cost effective, or when the nature of the purchase(s) is considered by the Board (or its designee) to be impractical to bid.

Documentation: The Purchasing Agent will maintain the annual Board Authorization of approved vendors for these types of transactions. Examples include the multiple purchase of small dollar amounts that, when taken in the aggregate, may total more than the bid limits. However, the exact nature of the items to be purchased is not known far in advance. Savings is generated by local convenience when multiple purchase orders are not generated for small orders and when local pick up and delivery convenience for district employees outweigh small potential commodity cost savings from non-local vendors. Examples of these types of purchases include groceries, hardware, and various supplies. A list of vendors considered to be in this classification of exception shall be approved by the Board.

- V. Quotes When Competitive Bidding Not Required
Goods and services which are not required by law to be procured by the 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. Alternative proposals or quotations will be secured by requests for proposals, written or verbal quotations or any other appropriate method of procurement, as set forth below.

A. Methods of Documentation

1. Verbal Quotations: a Verbal Quotation Record will set forth, at a minimum, the date, item or service desired, price quoted, name of vendor, name of vendor's representative;
2. Written Quotations: vendors will provide, at a minimum, the date, description of the item or details of service to be provided, price quoted, name of contact. For example, with regard to insurance, the district will maintain documentation that will include bid advertisements, specifications and the awarding resolution. Alternatively, written or verbal quotation forms will serve as documentation if formal bidding is not required. "Requests for Proposals" (RFPs), documented in the same manner as described herein, may also be used;

3. Requests for Proposals (RFPs): the district will contact 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:
 - a. the special knowledge or expertise of the professional or consultant service;
 - b. the quality of the service to be provided;
 - c. the staffing of the service; and
 - d. the suitability for the district's needs.

The Purchasing Agent will first locate prospective qualified firms by:

- a. advertising in trade journals;
- b. checking listings of professionals; or
- c. making inquiries of other districts or other appropriate sources.

The Purchasing Agent will then prepare a well-planned RFP which will contain critical details of the engagement, including the methods which it will use in selecting the service.

B. Purchases/Public Work; Methods of Competition to be Used for Non-Bid Procurements; Documentation to be Maintained

The Purchasing Agent 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:

1. Purchase Contracts up to \$19,999
 - a. Contracts from \$1 to \$19,999: Verbal/Written/Other Quotes
2. Public Work Contracts up to \$34,999
 - a. Contracts from \$1 to \$34,999: Verbal/Written Quotes
3. Emergencies: Verbal Quotes
Documentation will include notations of verbal quotes
4. Insurance: Written Quotes / (RFPs)
Documentation will include bid advertisements, specifications and the awarding resolution. Alternatively, written or verbal quotation forms will serve as documentation if formal bidding is not required. "Requests for Proposals: (RFPs), documented in the same manner as described herein, may also be used.
5. Professional Services: RFPs
The solicitation of competitive quotes will be completed on an individual basis by the Purchasing Agent through the use of a formal, well-planned RFP process.

6. Leases of Personal Property: Written Quotes
Documentation will include written quotes, cost-benefit analysis of leasing versus purchasing, etc. The Purchasing Agent will note that the contract is a true lease and not an installment purchase contract.
7. Second Hand Equipment from Other Governments:
Quotes
Documentation will include market price comparisons (verbal or written quotes) and the name of the government.
8. Certain Food and Milk Purchases: Written Quotes
Documentation will be consistent with sections 114.3 and 114.4 of the Regulations of the Commissioner of Education.
9. Certain Municipal Hospital Purchases: RFP
Documentation will include the legal authorization, Board authorization, and market price comparisons.
10. Sole Source: Written or verbal quotes
Documentation will include, among other things, the unique benefits of the patented item as compared to other items available in the marketplace; that no other item provides substantially equivalent or similar benefits; and that considering the benefits received, the cost of the item is reasonable, when compared to conventional methods.
Notations of verbal quotes will be maintained by the Purchasing Agent. In addition, the Purchasing Agent will document that there is no possibility of competition for the procurement of the goods.
11. Computer Software: Computer Software is generally considered to be a commodity, treated in a similar fashion as materials and supplies. However, some more complicated, systemic use software (accounting, special education, transportation routing, student database) require ongoing professional support. In these cases, the procurement of this type of systemic software shall be accomplished by formal RFP process.

VI. Quotes Not Required When Competitive Bidding Not Required

- A. The Purchasing Agent will not be required to secure alternative proposals or quotations for those procurements:

1. under a county contract;
2. under a State contract;
3. of articles manufactured in State correctional institutions; or
4. from agencies for the blind and severely disabled.

(Note: The Board will be apprised of purchases in excess of \$20,000 for items procured under one of these contracts)

- B. In addition, the Purchasing Agent will not be required to secure such alternative proposals or quotations for:

1. emergencies, as defined under General Municipal Law Section 103(4), where time is a crucial factor as determined by the Board of Education (or its designee);

2. procurements for which there is no possibility of competition (sole source items);
3. procurements of professional services, which, because of the confidential nature of the services, do not lend themselves to procurement through solicitation; or
4. very small procurements when solicitations of competition would not be cost effective.

The Board of Education may from time to time appoint an Ad Hoc Committee to secure proposals for professional services such as internal auditor, financial auditor, and lawyers due to the confidential nature of their services, especially those services that report to the Board of Education.

The Purchasing Agent may from time to time establish an informal committee to solicit professional services (such as banking, insurance, architectural and surveying services) or technical services (such as construction management, alarm and fire suppression system maintenance, telephone and telecommunications and network or database infrastructure installation and implementation services) that are not confidential in nature.

The Purchasing Agent is authorized to approve small (less than \$1,000) contracts for professional or technical services, not to exceed an aggregate of \$5,000 per vendor in a fiscal year. Larger contracts (\$1,000 or more) must be approved by the Board of Education before a Purchase Order may be issued.

VII. Procurements from Other than the "Lowest Responsible Dollar Offeror"

The Purchasing Agent will provide justification and documentation of any contract awarded to an offeror other than the lowest responsible dollar offeror, 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.

VIII. Use of Purchase Orders

Once the purchasing decision has been made (after following the bid/quote/proposal guidelines outlined), that decision shall be reflected in the issuance of a Purchase Order.

The Purchase Order should include all costs associated with the purchase, including any charges and fees such as shipping, handling, delivery, setup and removal.

The Purchase Order, once issued, should represent the maximum amount the district will pay for the good or service required. However, small variances (the greater of 5% of the face amount of the Purchase Order, or \$50) between the Purchase Order amount and the Invoice amount are permissible with Purchasing Agent approval. Proper documentation of such approval and the reason for the variance shall be maintained. Larger variances must be pre-approved by the Purchasing Agent, and a statement to that effect should appear on all Purchase Orders.

IX. Internal Control

The Board authorizes the Superintendent, with the assistance of the Purchasing Agent, to establish and maintain an internal control structure whereby, to the best of their ability, all transactions will be executed in accordance with the law and district policies and regulations, and recorded properly in the financial records of the district. This internal control structure may be communicated effectively to all district personnel through the compilation and distribution of a district Purchasing Manual.

Comments will be solicited from those administrators involved in the procurement process before enactment of the district's regulations regarding purchasing and from time to time thereafter.

It should be recognized that, from time to time, some degree of professional judgement will need to be exercised by the Purchasing Agent in adhering to these guidelines, with the underlying goal to be the procurement of necessary goods and services at the lowest possible costs.

The unintentional failure to fully comply with the provisions of section 104-b of the General Municipal Law or the district's regulations regarding procurement will not be grounds to void action taken or give rise to a cause of action against the district or any officer or employee of the district.

Ref: Education Law §§305(14); 1709(9)(14)(22)

General Municipal Law §100-a, 102; 103; 104-b; 109-a; 800 et seq.
8 NYCRR §§114.3; 114.4; 170.2

Note: Prior regulation, Purchasing, 3320(a)-(f)

June 29, 1992

June 22, 1998

October 26, 2009

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