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 district 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 district will then determine whether the amount of the procurement is above the applicable monetary threshold as set forth above.

3. The district 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 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.

C. Opening and Recording Bids; Awarding Contracts

The Purchasing Agent 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 after responding to an advertisement for sealed bids.

D. Documentation of Competitive Bids

The district will maintain proper written documentation, which will set forth the method in which it determined 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 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 district will provide justification and documentation of any such contract awarded.
E. Acceptance of Sole Bidder

The district will document cases of acceptance of sole bidder with explanation of why they have occurred and provide further information on any possible remedy action taken to avoid their repeated occurrences.

F. Purchase of Instructional Materials

In accordance with Education 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.)

The district will establish and follow a plan to ensure that every student with a disability who needs his or her instructional materials in an alternative format will receive those materials at the same time that they are available to non-disabled students.

G. 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.

IV. Exceptions to Competitive Bidding Requirements

The district will not be subject to competitive bidding requirements when the Board of Education, in its discretion, determines that one of the following situations exists:

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

   However, when the Board passes a resolution that an emergency situation exists, the district 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 district will maintain records of verbal (or written) quotes;

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

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

3. 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 district will maintain legal authorization, Board authorization and market price comparisons, or

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

Documentation: The district 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.

5. The district may award a contract for professional services to an individual or company, which must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth. In determining whether a service fits into this category, the purchasing agent should take into consideration; (a) whether the services are subject to state licensing or testing requirements; (b) whether a substantial form of education or training is a necessary prerequisite to the performance of the service.

Documentation: The district will maintain written documentation of the qualifications that were utilized to determine that the contract is for a professional service.

6. when the district purchases through the contracts of (or “piggybacks” onto) other governmental entities, as authorized by law, for certain goods and services permitted by law. Factors relevant to the decision to “piggyback” may include cost, staff time, delivery arrangements, quality of goods and services, and suitability of such goods and services to the district’s needs.

Documentation: The district will keep documentation indicating why “piggybacking” is in the best interests of the district, and that the originating contract was let in a manner consistent with applicable competitive bidding requirements.

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: the telephone log or other 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 contract. 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: 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 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 district will first locate prospective qualified firms by:

1. advertising in trade journals;
2. checking listings of professionals; or
3. making inquiries of other districts or other appropriate sources.

The district will then prepare a well-planned RFP which will contain critical details of the engagement, including 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 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.

1. **Purchase of commodities, equipment, or goods up to $20,000:**
   - $1-$5,000: At the discretion of the Purchasing Department.
   - $5,001-$10,000: Documentation of telephone/email/internet quotes from at least three separate vendors (if available) or
   - $10,001-$20,000: Formal written quotes from at least three separate vendors (if available) required.

2. **Public Work Projects/Contracts up to $35,000**
   - $1-$10,000: At the discretion of the Purchasing Department
   - $10,001-$20,000: Documentation telephone/email/internet quotes from at least three separate vendors (if available)
   - $20,001-$35,000: Formal written quotes from at least three separate vendors (if available) required.

3. **Emergencies:** Verbal quotes

Documentation will include notations of verbal quotes.
4. **Insurance:** Written quotes
   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:** RFP
   Documentation will include written proposals.

6. **Leases of Personal Property:** Written quotes.
   Documentation will include written quotes, cost-benefit analysis of leasing versus purchasing, etc. The district will note that the contract is a true lease and not an installment purchase contract.

7. **Second-Hand Equipment from Other Governments:** Written quotes.
   Documentation will include market price comparisons (verbal or written quotes) and the name of the government.

8. **Certain Municipal Hospital Purchases:** RFP
   Documentation will include legal authorization, Board authorization, and market price comparisons.

9. **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 district. In addition, the district will document that there is no possibility of competition for the procurement of goods.

VI. **Quotes Not Required When Competitive Bidding Not Required**

The district will not be required to secure alternative proposals or quotations for those procurements as permitted by state law:

1. under a county contract;
2. under a state contract;
3. under a federal contract
4. under a contract of another political subdivision
5. of articles manufactured in state correctional institutions; or from agencies for the blind and severely disabled.

In addition, the district will not be required to secure such alternative proposals or quotations for:

1. emergencies where time is a crucial factor;
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 solicitation of competition would not be cost-effective.
VII. Procurements from Other than the Lowest Responsible Dollar Offeror

The district 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. Internal Control

The Board authorizes the Superintendent of Schools, with the assistance of the Purchasing Agent, to establish and maintain an internal control structure to ensure, to the best of their ability, that the district’s assets will be safeguarded against loss from unauthorized use or disposition, that transactions will be executed in accordance with the law and district policies and regulations, and recorded properly in the financial records of the district.

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.

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