

PURCHASING REGULATION

The following sets forth the procedures for the procurement of goods and services by the district, which may be supplemented by policies and procedures for procurement set forth in the district's federal funds procedural manual:

Commented [NH1]: Added to meet recommendations of internal auditors.

I. Definitions

Best Value: 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- or women-owned businesses as defined in Section 163 of the State Finance Law.

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

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

Reasonably Competitive: the cost of a recycled product does not exceed (a) 10% above that of a comparable non-recycled product, or (b) 15% above that of a comparable non-recycled product, if at least 50% of the secondary materials used to make the product comes from New York State waste.

Recycled Product: any product manufactured from secondary materials (recovered from or otherwise destined for the waste stream), as defined in Economic Development Law §261(1), and which meets the requirements of Environmental Conservation Law §27-0717(2) and associated regulations 6 NYCRR §368.4.

II. Thresholds for Formal Bidding on Contracts

Purchase contracts for materials, equipment and supplies involving an estimated annual expenditure equal to or exceeding \$20,000 and public work contracts involving an expenditure equal to or exceeding \$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.

Deleted: of more than

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.
4. All advertised bids must include the following statement required by General Municipal Law 103-g: “By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law.”

Deleted: shall

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 or a purchase contract bid of best value (as recommended by the Purchasing Agent), who has furnished the required security after responding to an advertisement for sealed bids.

In order to be considered a responsible bidder, entities must certify that they are not on the list created and maintained by the State Office of General Services cataloging significant investment in the Iranian energy sector. Such statement may be submitted electronically pursuant to General Municipal Law §103(1).

Entities that cannot make this certification may only be awarded the bid if:

1. The entity’s investment activities in Iran were made before April 12, 2012; the investment activities in Iran have not been expanded or renewed after that date; and the entity has adopted, publicized, and is implementing a formal plan to

cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

2. The district makes a determination, in writing, that the goods or services are necessary for the district to perform its functions and that, absent such an exemption, the district would be unable to obtain the goods or services for which the contract is offered.

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 work contract.

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 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.

IV. **Exceptions to Competitive Bidding Requirements**

The district will not be subject to competitive bidding requirements when one of the following situations exists:

1. The Board has determined that a bona fide emergency exists arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting the buildings of the district or the life, health, or safety of students or staff of the District require immediate action that cannot await competitive bidding.

If the Superintendent of Schools determines that a bona fide emergency exists for which prior Board approval is impossible or impracticable, the Superintendent or his designee shall enter into such contracts necessary to address immediately the unforeseen occurrence or condition, and shall as soon as practicable, inform the members of the Board of the emergency, the reason for immediate engagement of a contractor without prior Board approval and without engaging in competitive bidding, the identity of the contractor, and the terms of the contract. As soon as

Deleted: ¶
E. 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.¶
¶

Deleted: F

Deleted: G.

Deleted: Environmentally-Sensitive Cleaning and Maintenance Products¶
¶
The district will purchase and utilize environmentally sensitive cleaning and maintenance products whenever feasible. The purchasing agent will consult with the Green Guidelines provided by the Office of General Services....

practicable thereafter, the Board shall meet for the purpose of considering and approving the contract(s).

The emergency purchase of goods or services shall be used only where the need for the goods or services could not have been reasonably foreseen, or such need arose notwithstanding a good faith effort on the part of the district to plan for their purchase in accordance with these procedures.

An emergency contract shall be of such limited scope and duration as to meet only the immediate needs of the emergency.

Any emergency contract entered into by the District without competitive bidding and without Board approval shall include a provision that in the event the Board fails to approve the contract, the District shall have the right to terminate the contract without penalty, subject to the District compensating the contractor for time and materials expended to the date the contract has been terminated.

Documentation: The district will maintain records of verbal (or written) quotes, as appropriate.

2. 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 district will maintain market price comparisons (verbal or written quotes) and the name of the government entity.

3. when the Board separately purchases eggs, livestock, fish and dairy products (other than milk), juice, grains and species of fresh fruits and vegetables grown, produced or harvested in New York State, each order not to exceed \$150,000 unless granted permission by the Commissioner of Education, subject to the requirements of General Municipal Law §103(9) and Commissioner's Regulations §114.3.

Documentation: The district will maintain documentation consistent with sections 114.3 of the Regulations of the Commissioner of Education.

4. when the Board separately purchases milk directly from licensed milk processors. 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

Deleted: directly from producers or growers

Commented [NH3]: Modified per NYSBA November 2023 suggested revisions.

Commented [NH4]: Deletion of limitation to milk processors employing fewer than 40 employees made per NYSSBA November 2023 suggested revisions.

Deleted: employing less than forty (40) people

the total enrollment of the district or exceed the current market price.

Documentation: The district will maintain documentation consistent with section 114.4 of the Regulations of the Commissioner of Education;

5. 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 the legal authorization, Board authorization and market price comparisons.

6. 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.

7. when the district purchases professional services that require special skill or training, such as but not limited to, audit, medical, legal or insurance services, or property appraisals.

8. 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, copies of the original contract, 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 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: the district will utilize RFP's to engage professional services providers in accordance with Policy 6741,

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 Contracts up to \$20,000
 - a. Contracts from \$3,000 to \$5,000: Verbal quotes. Documented telephone quotes from at least three (3) separate vendors is required.
 - b. Contracts in excess of \$5,000 to \$20,000: Formal written quotes. Documented written quotes from at least three (3) separate vendors is required.
 - c. Contracts in excess of \$20,000: Sealed bids will be received in conformance with General Municipal Law § 103. Whenever other than the lowest quote is awarded, there must be written documentation of the reason for the award.
2. Public Work Contracts up to \$35,000
 - a. Contracts from \$3,000 to \$10,000: Verbal quotes. Documentation will include notations of verbal quotes. Documented telephone quotes from at least (3) separate vendors is required.

Deleted: 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.¶
¶
¶

- b. Contracts in excess of \$10,000 to \$35,000: Formal written quotes. Documented written quotes from at least three (3) separate vendors is required.
 - c. Contracts in excess of \$35,000: Sealed bids will be received in conformance with General Municipal Law § 103. Whenever other than the lowest quote is awarded, there must be written documentation of the reason for the award.
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 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 district. In addition, the district will document that there is no possibility of competition for the procurement of the 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 governmental entity;
5. through permitted cooperative purchasing agreements in accordance with applicable law;
- ~~6.~~ of articles manufactured in state correctional institutions; or
- ~~7.~~ from agencies for the blind and severely disabled.

Deleted: 5

Deleted: 6

“Piggybacking” onto the contract of other governmental agencies is permitted where the original contract is in conformance with the goals of the district’s policy and regulation for purchasing when competitive bidding is not required.

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 solicitations of competition would not be cost-effective.

VII. **Procurements from Other than the “Lowest Responsible Dollar Offeror”**

Where bidders are solicited through competitive bidding, 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. Where bidders are solicited for a contract award by “best value”, the district shall identify the criteria considered in making the award to the successful bidder.

VIII. **Preferential and Environmentally Conscious Purchasing**

A. **Instructional Materials in Alternative Formats**

In accordance with Education Law, the district gives 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 instructional materials in an alternative format will receive those materials at the same time that they are available to non-disabled students.

B. **Environmentally-Sensitive Cleaning and Maintenance Products**

In accordance with Education Law §409-i, the district will purchase and utilize environmentally sensitive cleaning and maintenance products whenever feasible. The purchasing agent will consult with the Green Guidelines provided by the Office of General Services.

C. **Recycled Products**

The district has opted to give a preference to vendors of recycled products whenever the price is reasonably competitive, as these terms are defined in state law and reflected in this regulation. The Purchasing Agent is directed to seek out recycled materials whenever possible, and to include this information in its advertisements.

IX. **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.

Ref:

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

| General Municipal Law §§102; 103; 104-b; 104-d; 109-a; 800 et seq.

8 NYCRR §§114.3; 114.4; 170.2

Cross-Ref: 6700, Purchasing
6720, Competitive Bidding Requirements
6740, Purchasing Procedures
6760, Payment Procedures

Adoption date: November 14, 1994

Revised: June 8, 2009
January 11, 2010
February 2, 2012
February 7, 2013
June 3, 2021

| ***FOR FIRST READING 1-9-25 [REVISIONS SHOWN IN
TRACK CHANGES]***