

Miller Place Union Free School District
Miller Place, New York 11764
Board of Education Policy

6700-R

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. For purposes of best value awards, the term “purchase contract” includes contracts for service work but excludes contracts necessary for the completion of a public works contract covered by the prevailing wage provisions of Article 8 of the N.Y.S. Labor Law.

Public Work Contract: a contract involving labor or labor and materials for a project, such as construction.

Best Value: optimizing quality, cost and efficiency among responsive and responsible offers. 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 State Finance Law §163.

Responsive offeror: for purposes of best value awards, a responsive offeror is an offeror meeting the minimum specifications established by the District in its competitive offering.

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, or, in the case of purchase contracts only, awarded on the basis of best value among responsible and responsive offerors pursuant to a competitive offering. 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 if 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.

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4. All advertised bids shall 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."

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. Contracts Awarded with Best Value

Where the basis for the award is best value, the Purchasing Agent shall document in the procurement record and in advance of the initial receipt of offers, the determination of the evaluation criteria, which, whenever possible, shall be objective and quantifiable (such as a cost-benefit analysis), as well as the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted. The basis for awarding the contract may identify a quantitative factor for offerors that are small business or certified minority or women-owned business enterprises as defined in subdivisions one, seven, fifteen, and twenty of Executive Law §310 to be used in evaluation of offers for awarding of contracts for services. Best value specifications should describe the general manner in which the evaluation and award of offers will be conducted and, as appropriate, identify the relative importance or weighting of non-price factors. In evaluating and determining to accept a higher priced offer, a cost-benefit analysis should generally be used and documented to show quantifiable value or savings from non-price factors that offset the price differential of the lower price offers.

D. Contracts Awarded - Iranian Divestment Act Certification

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). Where an entity cannot make this certification, the entity must furnish with its bid a signed statement which sets forth in detail the reasons why it cannot make such a certification.

Entities that cannot make this certification may on a case-by-case basis, be awarded the bid only if:

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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.

E. 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. The Board authorizes that purchase contracts may be awarded on the basis of best value, as defined in State Finance Law §163 and General Municipal Law §103.

F. 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. 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 its product and/or reputation before the District. A quote which exceeds the bid limit will be awarded only when such award is in the best interests of the district and other wise furthers the purposes of section 104-b of the General Municipal Law. The District will provide justification and documentation of any such contract awarded. The District will award contracts to contractors possessing the ability to perform successfully under the terms and conditions of a proposed contract including the compliance with public policy, integrity based on record of past performance, the financial and technical resources, confirmation that the contractor is not subject to suspension or debarment. Additional specifications required may be listed in the individual bid documentation.

G. 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 a 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.)

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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.

H. 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.

I. Environmentally-Sensitive Cleaning and Maintenance Products

The district may 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.

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, in its discretion, determines that one of the following situations exists:

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 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. The District will maintain records of verbal (or written) quotes, as appropriate.

- 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, the District will maintain market price comparisons (verbal or written quotes) and a name of the government entity.

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- 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, or associations of producers or growers of New York State, subject to the requirements of General Municipal Law §103(9) and Commissioner's Regulations §114.3, the district will maintain documentation consistent with §114.3 of the Commissioner's Regulations, including market price comparisons (verbal or written quotes) as well as the name of the government entity.
- D. When there is only one possible source from which to procure goods or services required in the public interest, 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.
- E. When the Board separately purchases milk directly from licensed milk processors employing less than forty (40) people, 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 or exceed the current market price, the District will maintain documentation consistent with section 114.4 of the Regulations of the Commissioner of Education.
- F. 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, the District will maintain the legal authorization, Board authorization and market price comparisons.
- G. When the District purchases professional services that require special skill or training, such as but not limited to, audit, medical, special education services, legal or insurance services, or property appraisals, the District will maintain proper documentation in accordance with the law and District policy.
- H. 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. The District will maintain 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 written or

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verbal quotations, requests for proposals, or any other appropriate method of procurement, as set forth below.

A. Methods of Documentation

1. Verbal Quotations: a telephone log or other record will set forth, at a minimum, the date, description of item or details of the 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. Written or verbal quotation forms will serve as documentation if formal bidding is not required. Requests for Proposals (RFP's), documented in the same manner as described herein, may also be used;
3. Requests for Proposals: the district may contact a number of professionals (e.g., architects, engineers, accountants, lawyers, underwriters, fiscal consultants, etc.) and request that they submit written proposals. The RFP's may include negotiations on a fair and equal-basis. The RFP's 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 districts needs.

The district may 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 district 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 to be Used for Non-Bid Procurements:

The following methods of competition may 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 \$500 to \$4,999: Verbal quotes
 - b. Contracts from \$5,000 to \$20,000: Written quotes
2. Public Work Contracts up to \$35,000
 - a. Contracts from \$1 to \$9,999: Verbal quotes
 - b. Contracts from \$10,000 to \$35,000: Written quotes
3. Emergencies: Verbal quotes–Documentation will include notation of verbal quotes.

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4. Insurance: RFP
5. Professional Services: RFP
6. Second Hand Equipment from Other Governments: Verbal or written quotes
7. Certain Food and Milk Purchases: Verbal or written quotes
8. Sole source: Written or verbal quotes: The District will document the unique benefits of the patented item as compared to other items available in the market place; document 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. In addition, the District will document there is no possibility of competition for the procurement of the goods.
9. Leases of Personal Property: Written quotes
10. Second Hand Equipment from other governments: Written quotes
11. Certain Municipal Hospital Purchases: RFP

VI. Quotes Not Required When Competitive Bidding Not Required

The district will not be required to secure alternative proposals or quotations for those procurements:

- A. Under a county contract;
- B. Under a state contract;
- C. Under a federal contract;
- D. Under a BOCES contract;
- E. Under a cooperative contract;
- F. Under a contract of another political subdivision;
- G. Articles manufactured in state correctional institutions; or
- H. From agencies for the blind and disabled.

Consistent with General Municipal Law §103(16), the district may contract for purchase of apparatus, materials, equipment, and supplies, and contract for services related to the installation, maintenance, or repair of those items, through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision therein, provided the contract was made available for use by other governmental entities, and : (a) The contract was let to the lowest responsible bidder in a manner consistent with General Municipal Law §103; or (b) The contract was let on the basis of best value in a manner consistent with General Municipal Law §103.

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

- A. Emergencies where time is a crucial factor;
- B. Procurements for which there is no possibility of competition (sole source items);
- C. Procurements of professional services, which, because of the confidential nature of the services, do not lend themselves to procurement through solicitation; or
- D. Very small procurements when solicitations of competition would not be cost-effective.

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

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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, 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.

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. The regulations must then be adopted by Board resolution. All district regulations regarding the procurement processes will be reviewed by the Board at least annually.

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.

IX. Blanket Purchase Orders

Blanket purchase orders or open-end accounts may be issued to various vendors for purchase of items considered to be of immediate need or for the purpose of consolidated (bulk) purchases.

The reasons for the use of blanket purchase orders are twofold:

- A. To eliminate the necessity for the issuance of separate orders for groups of items that is purchased frequently from the same vendor. An example is automotive supplies (such as spark plugs, battery cables, points, etc.) used in a central garage.
- B. To permit purchasing items of this nature on an "as needed" basis when there is no provision to maintain an inventory.

The vendor's billing cycle (usually monthly) should be considered in determining the period of time covered by a blanket purchase order.

The amount of the blanket purchase order shall be determined by the Purchasing Agent and the Fiscal Officer. It should be based on information available in the records covering previous fiscal years and data obtained from the department head involved.

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The department should keep a record of the purchases made to ensure that they do not exceed the amount allowed by the blanket purchase order.

When supplies are delivered or picked up, receipts, delivery slips, or other documents transmitted by the vendor will be signed by the individual receiving the supplies. The blanket purchase order number will also be placed on the documents which will be attached to the receiving copy of the purchase order and forwarded to the Purchasing Agent at the end of the period for which the blanket purchase order was issued. However, if the amount allowed on the blanket purchase order is reached prior to this time, the covering documents should be forwarded to the Purchasing Agent and a new blanket purchase order requested.

X. Confirming Orders – Emergency Use Only

A verbal order, subject to subsequent confirmation by a written purchase order, may be given only in cases where necessity for immediate emergency action exists, and the use of a standard purchase order is not possible. Naturally, such a deviation from "the norm" should have a very limited use. The individual placing such an order should justify the need for this action. Lack of proper planning should not be considered a valid reason for this process. A confirming order must be cleared by the Purchasing Agent.

A confirming order should be issued immediately after availability of funds is determined and certified to. This order should follow the same procedures as other orders but should have priority so that the vendor will receive the order without delay. The order should be marked "confirmation."

The district should notify all administrators and employees that it will not be responsible for orders placed in this manner unless a confirming order has been cleared by the Purchasing Agent. If a confirming order is disapproved, the materials or supplies should be returned, if possible. The Purchasing Agent, administrator, and vendor should be notified immediately and appropriate steps taken.

XI. Receipt of Goods

When goods are delivered, the receiving employee must complete the receiving copy of the purchase order indicating the quantity received.

The completed receiving copy should immediately be forwarded to the Business Office who should compare it with the vendor's claim. Any invoices and/or shipping reports received from the vendor should also be transmitted to the Business Office. If this procedure is followed, the district will have the advantage of taking discounts offered for prompt payment.

Failure of vendors to make promised deliveries should be reported to the Purchasing Agent for follow up. The Purchasing Agent or District personnel may document disputes with vendors and may not make payment until a satisfactory resolution is reached for the dispute.

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The District’s Purchasing policy shall be reviewed annually.

Reference: Education Law Sections 305(14); 1709(9)(14)(22)
General Municipal Law Sections 102; 103; 104-b; 109-a; 800 et seq.
8 NYCRR Sections 114.3; 114.4; 170.2

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