

SUPERINTENDENT'S REGULATION 6700-R

Bolger Vargas (PKM)
Approved Upon Superintendent's Initials

7/14/14
Date

PURCHASING

Pursuant to the authority provided to the Superintendent of Schools pursuant to Board Policy # 3310, the following regulations relating to District purchasing policies and procedures are hereby enacted, effective immediately:

1. Periodic Review of Bid Specifications.
The Purchasing Department shall review all general conditions and all recurring bid specifications on, at minimum, a triennial basis. Particular attention shall be paid to ensuring that the specifications regarding guarantees and warranties are tailored to the type of product covered by such bid; and that adequate provisions exist to assure continuity or services for the entire term by provisions for performance bonds, liquidated damages, etc. When specifications are being authorized for the first time, or as part of a triennial review, such bid specifications shall be reviewed and accepted by the Law Department, and then submitted to the Superintendent for approval as a matter of standard operating procedure.
2. Exercise of the Right to Re-bid and/or Not to Award.
The Superintendent (or Chief Executive Officer for Business Services as designee of the Superintendent), upon the recommendation of his/her staff, may decline to make an award of any matter subject to the State bidding laws; and may exercise the discretion to reject all bids and to re-advertise, as authorized by General Municipal Law §103(1). Exercise of the Superintendent's discretion under the State statute and under this regulation shall not be deemed to in any way limit the parallel discretion of the Board of Education to exercise its discretion to withhold any award, or to direct the rejection of all bids and re-advertisement.
3. Improving Notice of District's Right to Re-bid and/or Not to Award.
Effective immediately, in addition to the reservation of discretionary authority under State statute, the District's general conditions shall be amended to contain express language noting that the Board of Education and the Rochester City School District reserve their full discretion to withhold any award; and/or to reject all bids and to re-advertise, as authorized General Municipal Law §103(1), at any time prior to the formal execution of a contract by both the District and the contractor.

4. Notifications to Successful Bidders.
Effective immediately, the general conditions shall be amended to contain express language noting (a) that bidders shall have no legal rights or expectation to a contract unless and until all necessary authorizations are completed by the District, and the contract has been formally executed; and (b) that any preliminary notification relating to a potential award and contract shall in writing, from the Director of Purchasing or his designee; and any such written notice shall be deemed to be advisory only, constituting no promise or assurance that a contract will be authorized or executed. Any notice provided by the Director of Purchasing pursuant to the general conditions, as amended, shall expressly state that it is advisory, that no promise or assurance is being made upon which the bidder may rely to its detriment; and that the discretion of the Board of Education and of the District to withhold an award, and/or to reject all bids is not waived.
5. Assumption of Risk.
All District bid packages and requests for proposals shall include the following language: "The bidder is hereby advised that until all contracting requirements are complete, and a contract has been formally executed by both the bidder/contractor and the District, the District shall not be liable for work done in preparation for, or in furtherance of the objectives of said contract. Any work performed or expense incurred by a bidder/contractor prior to the execution of a contract shall be deemed to be a voluntary act or gift, done at the risk of the bidder/contractor.
6. Performance Bonds.
The General Conditions of District bidding documents shall be amended, effective immediately, to assure that a performance bond is required as a general rule, except where the specifications for a particular bid expressly provide otherwise. Such an exception from the requirement for a performance bond may be written into a specification where the Purchasing Department has objective evidence that performance bonds cannot be obtained by *any* potential bidder; or has determined that the cost of such bonds for a specific purpose would be disadvantageous to the District's interests; or where the inclusion of a performance bond requirement upon potential bidders would be detrimental to the furtherance of an articulated Policy or need of the District. Such an exception may also be written into specifications where the anticipated contract is expected to have a duration of less than 120 days; or where the dollar value of the contract is expected to be less than Seventy-Five Thousand Dollars (\$75,000.00). Waiver of the performance bond requirement shall not limit or prohibit the District from including other requirements, such as liquidated damages, designed to protect the District from injury or loss in the event of a contract default.