

PURCHASING / BIDDING REQUIREMENTS AND PROCEDURES

The function of purchasing is to serve the educational program by providing the necessary supplies, equipment and related services. The purchasing function will be centralized in the Business Office under the general supervision of the Purchasing Agent designated by the Board of Education.

It is the goal of the Board to purchase competitively, without prejudice or favoritism, and to seek the maximum educational value for every dollar expended. Competitive bids or quotations shall be solicited in connection with all purchases whenever feasible and in the best interest of the District.

Alternative proposals or quotations will be secured by requests for proposals (RFP), written or verbal quotations, or any other appropriate method of procurement, except for procurements:

- under a County contract;
- under a State contract;
- of articles manufactured in State Correctional Institutions; or
- from agencies for the blind and severely disabled.

In furtherance of that goal, the District's purchasing activity will strive to meet the following objectives:

1. Effectively supply all administrative units in the school system with needed materials, supplies, and contracted services.
2. Obtain materials, supplies and contracted services at the lowest prices possible consistent with the quality and standards needed as determined by the Purchasing Agent in cooperation with the requisitioning authority. The educational welfare and safety of the students is the foremost consideration in making any purchase.
3. Ensure that all purchases fall within the framework of budgetary limitations and that they are consistent with the educational goals and programs of the District.
4. Maintain an appropriate and comprehensive accounting and reporting system to record and document all purchasing transactions.
5. Ensure, through the use of proper internal controls, that loss and/or diversion of District assets is prevented.

Opportunities shall be provided to all responsible suppliers to do business with the District. Purchases will be made through available cooperative BOCES bids, State contracts of the Office of General Services, or County contracts whenever such purchases are in the best interests of the District. In addition, the District will make purchases from correctional institutions and severely disabled persons through charitable or non-profit-making agencies, as provided by law.

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.

The Purchasing Agent will not be required to secure alternative proposals or quotations for:

- emergencies where time is a crucial factor;
- procurements for which there is no possibility of competition (sole source items);
- procurements of professional services which, because of the confidential nature of the services, do not lend themselves to procurement through solicitation.

At the discretion of the Purchasing Agent, low expense procurements will be obtained when solicitations of competition would not be cost-effective.

The Superintendent of Schools, with the assistance of the Purchasing Agent designated by the Board, shall be responsible for the establishment and implementation of procedures and standard forms for use in all purchasing and related activities in the District. Such procedures shall comply with all applicable laws and regulations of the State of New York and the Commissioner of Education.

No Board member, officer or employee of the District shall have an interest in any contract entered into by the Board or the District, as provided in Article 18 of the General Municipal Law.

The unintentional failure to fully comply with the provisions of Section 104-b of the General Municipal Law or the District's policies regarding procurement will not be grounds to void action taken nor give rise to a cause of action against the District or any officer or employee of the District.

Bidding Requirements and Procedures

The Superintendent of Schools, or his/her designee, has the authority to prepare, advertise, and open bids for all purchase contracts for public work. Such authority shall be subject to the informal competitive bidding requirements of §103 of the General Municipal Law.

In accordance with the Education Law and General Municipal Law, the Assistant Superintendent for Management Services shall be responsible for the development and administration of regulations relating to competitive bidding for the purchase of goods and services by the District. Such authority shall be subject to the approval of the Superintendent of Schools.

At the conclusion of bidding procedures, public work and purchase contracts shall be awarded to the "lowest responsible bidder". Parties who fail to comply with bid requirements or who demonstrate unreliability or general bad faith during a previous contract term may be rejected for renewal or granting of District contracts. The Board of Education, in its discretion, may reject all existing bids and initiate renewal of the bidding procedures.

The Assistant Superintendent for Management Services, or his/her designee, shall also:

- Review present bid lists with appropriate staff members to develop updated annual bid lists;
- Contact appropriate staff members in sufficient time to facilitate scheduled deadlines;
- Advertise, distribute, and receive bids; and
- Prepare a summary of bids for Board of Education consideration and approval.

Notwithstanding anything to the contrary stated herein, the Board of Education hereby authorizes the use of a Best Value Award methodology for awarding a purchase contract or purchase contracts.

Cross-Reference: 6670, Petty Cash Accounts
 6740, Purchasing Procedures

Reference: Education Law §§305(14); 1619; 1709(9),(14),(22); 1725; 1725-a; 2513; 2556;
 General Municipal Law §§100; 102; 103; 103-d; 103-e; 104; 104-b; 105; 109-a;
 109-b; 800 et seq.

Revised: November 20, 2001; October 17, 2006; October 5, 2010
 May 6, 2014

PURCHASING / BIDDING REQUIREMENTS REGULATION**A. Competitive Bidding Requirements**

The requirements for formal competitive bidding are as follows:

1. All items must be bid when the cost of any single item or group of similar items is in excess of twenty thousand (\$20,000.00) dollars. All items and/or groups of items whose total exceeds one thousand (\$1,000.00) dollars but is less than twenty thousand (\$20,000.00) dollars will require informal quotations either by a request for quotation form mailed to bidders, or by telephone when time is of the essence.
2. All transportation must be bid where the cost of all transportation contracts for services are expected to exceed twenty thousand (\$20,000.00) dollars, unless the District has elected to contract for the transportation of students through a Request for Proposals (RFP) evaluation process. Annual, biennial, triennial, quadrennial or quinquennial year extensions of a transportation contract secured either through competitive or through the RFP evaluation process are not subject to competitive bidding when such extensions are made in accordance with the Regulations of the Commissioner of Education.
3. All repair or contract obligations involving the use of personnel and goods in a single project must be bid when such project costs exceed thirty-five thousand (\$35,000.00) dollars.
4. A "Notice to Bidders" shall be published in the officially designated newspaper(s) at least once, commencing not less than five (5) business days prior to the date so specified for the opening and reading of the bids. A longer period to advertise for bids may be established on the complexity of the bid. Notices are to be made available to potential bidders sufficiently in advance of the scheduled bid opening date to permit timely preparation and submission of bids.
5. Bids shall be received until the opening time designated in the official notice. All bids shall be date-stamped upon receipt and shall be kept in a safe, locked location until the time for opening.
6. Bids shall be opened at the time and place set forth in the "Notice to Bidders". There will be at least three (3) District employees present at each bid opening, including the Purchasing Agent or his/her designee. All interested parties may also attend the opening of bids.
7. After being opened, all bids shall be recorded and analyzed. The Purchasing Agent shall make a recommendation to the Board of Education as to the lowest responsible bidder who has met or complied with the bid specifications. In this analysis, in order to determine whether the lowest bidder is "responsible", the following factors shall be considered:

- a. lack of adequate expertise, lack of prior experience with comparable projects, or lack of financial resources necessary to perform the work outlined in the contract in a timely, competent manner;
 - b. pecuniary and financial responsibility;
 - c. engagement in criminal conduct;
 - d. bidder's criminal record;
 - e. criminal investigation of a bidder;
 - f. regard for the safety of employees or members of the public (the Purchasing Agent, or applicable Administrator/Department Head should determine when employees will be trained and that the equipment to be used is safe and functioning properly);
 - g. compliance with the New York State Labor Laws regarding prevailing wage, child labor, proper and timely wage payments and unemployment insurance laws;
 - h. compliance with the State Workers' Compensation Law including providing proof of proper workers' compensation or disability coverage;
 - i. violations of any State or Federal environmental statutes;
 - j. bidder's past history of dishonest work practices and inadequate performance of prior contracts;
 - k. bidder's reliability, honesty, skill, capacity, ability, judgment, good faith, fair dealing, integrity, accountability and moral worth; and
 - l. the presentation of false or misleading statements or any other issue that raises serious questions about the responsibility of the bidder.
8. In the event there are two (2) or more bonafide low responsible bidders, the District may make an award to one of the low bidders or, at its discretion, may reject all the bids and re-advertise the purchase. In making an award in the case of tied low responsible bidders, the Board may give consideration to a local business or supplier.
9. Bid bonds or deposits of five percent (5%) of the bid price may be required, at the discretion of the Purchasing Agent, on all contracts of less than twenty-five thousand (\$25,000.00) dollars. Performance bonds of one hundred percent (100%) of the bid price are required for all contracts in excess of seventy-five thousand (\$75,000.00) dollars. Performance bonds on contracts for less than seventy-five thousand (\$75,000.00) dollars may be required at the discretion of the Purchasing Agent.
10. Every bid shall contain the certification, properly executed by the bidder, required by Section 103-d of the General Municipal Law.
11. Minor deviations from specifications or compliance with bidding requirements may be waived by the Board upon the recommendation of the Purchasing Agent. The Purchasing Agent shall determine all questions of comparability or equivalency.
12. No Board member, officer, or employee of this School District or their families shall be interested financially in any contract entered into by the Board. This shall also preclude acceptance of any gratuities, financial or otherwise, by the above persons from any supplier of materials or services to the District.

B. Exceptions To Competitive Bidding Requirements

The District will not be subject to competitive bidding requirements when the Board, at 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 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 directly from producers or growers.

Documentation: The District will maintain documentation consistent with Sections 114.3 and 114.4 of the Regulations of the Commissioner of Education.

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 services 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 authorizes the use of a Best Value Award methodology for awarding a purchase contract or purchase contracts.

Documentation: The District will maintain the resolution authorizing the use of Best Value for awarding purchase contracts and contracts for service work.

C. Quotes When Competitive Bidding Is 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 (RFP), written or verbal quotations, or any other appropriate method of procurement, as set forth below.

1. Methods of Documentation

- a. 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;
 - b. 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. Alternatively, written or verbal quotation forms will serve as documentation if formal bidding is not required. "Requests for Proposals" (RFP), documented in the same manner as described herein, may also be used.
 - c. Requests for Proposals: When asked by the Board of Education, 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 RFP may include negotiations on a fair and equal basis. The RFP and evaluation of such proposals will consider price plus other factors such as:
 - the special knowledge or expertise of the professional or consultant service;
 - the quality of the service to be provided;
 - the staffing of the service;
 - the suitability for the District's needs.
2. 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.

- a. Purchase Contracts up to \$20,000.00.
 - Contracts from \$1,000.00 to \$3,000.00: minimum of three (3) verbal or written quotes.
 - Contracts from \$3,000.00 to \$20,000.00: written quotes.

- b. Public Work Contracts up to \$35,000.00.
 - Contracts under \$10,000.00: verbal quotes.
 - Contracts from \$10,000.00 to \$35,000.00: minimum of three (3) written quotes.
- c. Emergencies: Verbal Quotes.
 - Documentation will include notations of verbal quotes
- d. Insurance: Written Quotes.
- e. Professional Services: Request for Proposal (RFP).
 - Documentation will include written proposals.
- f. 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.
- g. Second-Hand Equipment from Other Governments: Written Quotes.
 - Documentation will include market price comparisons (verbal or written quotes) and the name of the government.
- h. 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.
- i. 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.

D. Quotes Not Required When Competitive Bidding Not Required

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

- under a county contract,
- under a state contract,
- 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:

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

E. 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.

F. Internal Controls

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.

Reference: Education Law §§305(14); 1709(9), (14), (22)
General Municipal Law §§102, 103, 104-b, 109-a, 800 et seq.
8 NYCRR §§114.3, 114.4, 170.2
Office of the State Comptroller, Opinion No. 90-48 (July 16, 1990).
In the Matter of Dellwood Foods, Inc., 97 Misc.2d 751 (1978).
In the Matter of Mid-State Industries, Ltd., 221 A.D.2d 705 (1995).

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