

PURCHASING REGULATION

NOTE: Boards should see that this information is provided to and carefully reviewed by Superintendents, School Business Officials, Purchasing Agent, and all personnel involved in purchasing in the district. Changes have been underlined below. Please note, though that NYSSBA has eliminated some provisions from the earlier version of the regulation that were redundant.

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 \$10,000 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 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. 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. 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.)

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.

F. 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.

G. 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.

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 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, 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 directly from producers or growers. The amount expended in any fiscal year by the district may not exceed an amount equal to fifteen cents multiplied by the number of days in the school year multiplied by the total enrollment of the district.

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 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.

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; or

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.

Documentation: The district will keep proper documentation in accordance with policy 6741.

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.

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 \$10,000

- a. Contacts under \$3,000-No quotations shall be required
- b. Contracts from \$3,000 to \$7,000: minimum of three telephone, fax or written bona fide quotations must be obtained (excluding refusals to bid)
- c. Contracts greater than \$7,000 but less than \$10,000: minimum of three written or bona fide quotations shall be obtained (excluding refusals to bid) and attached to the purchase order or requisition

Documentation of quotes will include the following information:

1. the name, address and telephone number of the vendor;
2. the name of the contact person at the company;
3. the items to be purchased, specifying the quantity brand name, and model number or a description of the service to be provided; and
4. the unit price of each item, the extended price, and the total price of the order for purchases, or a detailed listing of the cost of the services to be rendered.

2. Public Work Contracts up to \$35,000

- a. Contracts under \$5,000: No quotations shall be required
- b. Contracts between \$5,000 to \$10,000: minimum of three telephone, fax or written bona fide quotations must be obtained (excluding refusals to bid).
- c. Contracts greater than \$10,000 but less than \$35,000: minimum of three written or bona fide quotations shall be obtained (excluding refusals to bid) and attached to the purchase order or requisition

Documentation will include the information required in number 1 above.

3. Emergencies: Verbal quotes, insofar as practicable under the exigent circumstances 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 Service RFP (see policy 6741)
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:

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

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 offer, 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,