



Policy #5410

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Non Instructional / Business Operations

SUBJECT: PURCHASING POLICY AND REGULATIONS

GENERAL

The Purchasing Agent shall be responsible for developing and administering the purchasing programs of the district. Yearly, the Board of Education appoints a Purchasing Agent for the district. In his/her absence, the Board has designated the Assistant Superintendent for Business and Finance to act as Purchasing Agent.

Competitive bids or quotations shall be solicited in connection with all purchases as defined by this policy and applicable law. Contracts shall be awarded to the lowest responsible bidder complying with specifications and with other bidding conditions stipulated by Section 103, General Municipal Law, except as permitted by law.

All purchase contracts for materials, equipment, or supplies involving an anticipated expenditure of or over \$20,000 annually, and all public work contracts involving over \$35,000 shall be put out for bid and awarded on the basis of competitive bidding. Purchase contracts and public works contracts subject to competitive bidding will be awarded to the lowest responsible bidder, however, the Board authorizes that purchase contracts may be awarded on the basis of best value, as defined in State Finance Law §163. Other exceptions to competitive bidding are outlined below. The Purchasing Agent or her designated representative together with at least one other individual, is authorized to open bids and record the same pursuant to law, and 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.

Opportunities shall be provided to all responsible suppliers to do business with the school district. Suppliers whose place of business is situated within the district may be given preferential consideration only when bids or quotations on an item or service are identical as to price, quality and other factors.

Where permitted by law, purchases will be made through available cooperative BOCES bids, or by "piggybacking" onto contracts of the United the New York State Office of General Services (OGS), departments or agencies of New York State, and New York State county, or any state or any county or political subdivision or district therein, whenever such purchases are in the best interests of the District or will result in cost savings to 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.

SUBJECT: PURCHASING POLICY AND REGULATIONS (continued)

In accordance with law, the district shall give a preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats. The term "alternative format" shall mean 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 (or program of a BOCES), including but not limited to Braille, large print, open and closed captioned, audio, or an electronic file in a format compatible with alternative format conversion software that is appropriate to meet the needs of the individual student.



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The Board is also aware of the need to reduce exposure of students and staff to potentially harmful chemicals and substances used in cleaning and maintenance. In accordance with law, regulation and guidelines set forth by the Office of General Services (OGS), the district will purchase and utilize environmentally sensitive cleaning and maintenance products in its facilities whenever feasible. Cleansers purchased must, first and foremost, be effective so that the district may continue to purchase non-green products as necessary. Environmentally sensitive cleaning and maintenance products will be procured in accordance with standard purchasing procedures as outlined in this policy and regulation.

In order to ensure that the district avails itself of advantageous purchasing opportunities, the Board authorizes the Purchasing Agent to represent the district in applying for federal programs designed to discount prices for goods and services. Specifically, the Purchasing Agent will abide by the rules and regulations associated with applying for telecommunications service discounts through the Universal Service Fund (E-Rate), in addition to complying with the local purchasing policies set forth by the Board. As with all purchasing activity, appropriate documentation of the application and purchase through any federal program will be maintained by the business office.

PURCHASE CONTRACT is a contract involving the acquisition of commodities, materials, supplies or equipment.

PURCHASE WORK CONTRACT is a contract involving services, labor or construction and material.

PURCHASE ORDERS OVER-\$10,000 will be shared with the Board of Education prior to final approval. Any purchase order questioned will be held until sufficient information is presented to satisfy the question. If necessary, the purchase order will be presented for review to the School Board. Upon approval by the Board, the purchase order will be processed. A formal motion is not necessary unless specifically requested and seconded.

PURCHASING PROCEDURES

GENERAL MUNICIPAL LAW, SECTION 103

A. DETERMINING WHETHER PROCUREMENT IS SUBJECT TO COMPETITIVE BIDDING

1. The Purchasing Agent will first determine if a proposed procurement is a purchase contract or a contract for public work, and whether the amount of the procurement is above the applicable monetary threshold stated previously.
2. The Purchasing Agent will document the basis for any determination that competitive bidding as outlined above, is not required by law. The following are exceptions to the competitive requirements:



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B. SUBJECT: PURCHASING POLICY AND REGULATIONS (Cont'd)

- a. **EMERGENCIES**: Instances wherein the procurement of goods or services arises out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property, the life, health, safety or property of inhabitants are involved. A Memorandum to the Superintendent and Board of Education shall explain how an emergency purchase meets the above criteria, and the Board of Education shall pass a resolution declaring an emergency prior to the purchase, if feasible. The district will make the purchases at the lowest possible costs, seeking competition by informal solicitation of quotes to the extent practicable under the circumstances. Records of verbal or written quotes will be maintained with the purchase requisition.
- b. **PURCHASES FROM PREFERRED SOURCES**: These include CORCRAFT, Industries for the Blind of New York State, New York State Industries for the Disabled, Office of Mental Health and the U.S. Department of Veterans Affairs.
- c. **SOLE SOURCE ITEMS**: These are procurements for which there is no possibility of competition. Documentation will be attached to the purchase requisitions indicating that two additional vendors have been contacted and were unable to provide the required items.
- d. **PURCHASES FROM GOVERNMENT CONTRACTS**: New York State Contracts, County Contracts, BOCES (after approval by Resolution by the Board of Education), Municipal Cooperative Agreements, Surplus and second-hand supplies, material or equipment purchased from the federal government, State of New York, or any other political subdivision within the State of New York.
- e. **INSURANCE**: The district will adopt insurance practices that will obtain the best coverage for the lowest cost. The district has the option of requiring formal request for proposals (RFP); documentation would include bid advertisements, specifications and awarding resolution. Written or verbal quotation forms could serve as documentation if formal RFP is not required. Contractors/Vendors shall not commence any work until all required insurance has been obtained and a Certificate of Insurance provided.
- f. **PERISHABLE ITEMS**: The following items need not be grouped – meats and provisions, fresh produce, frozen foods, milk, livestock, etc.
- g. **UTILITIES**: Gas or Electric (Monopolies)
- h. **SMALL PROCUREMENTS**: Purchases and/or contracts below New York State limits are also exempt but must adhere to all other policy and procedural guidelines.



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- i. STATE-MANDATED OPERATIONS: Those that require certification of contracts, such as inspection of underground gas tanks.
- j. TESTING: The acquisition of products for testing evaluation purposes. Such testing will be coordinated and documented.
- k. PROFESSIONAL SERVICES: Because of the confidential nature of these services, they do not lend themselves to procurement solicitation. For initial contracts, at least three professionals will be contacted and asked to provide proposals. Requests for proposals may be used to obtain the services of architects, engineers, accountants, lawyers, underwriters, fiscal consultants, energy performance contractors and other professionals.

C. INSTALLMENT PURCHASE CONTRACTS

Voter authorization is required for installment purchase contracting. Provisions of the law are as follows:

- 1. The Board of Education must approve the contract.
- 2. The contract is not exempt from competitive bidding.
- 3. If the district is financing the contract through annual budget appropriations payments, the down payment cannot be greater than ten percent (10%) of the full contract price.
- 4. The installment payments should be substantially equal to each other.
- 5. Payments under this type of contract may not be made with the proceeds of the municipal bonds or notes.
- 6. The contract must contain an executory clause to the effect that the contract will be in effect only when funds are available.
- 7. Such a contract cannot be considered as indebtedness under Section 20.00 or 135.00 of the Local Finance Law.

In excess of bid limits, the following is also subject to Municipal Law, Section 103 in procurement of equipment:

- 1. LEASE/RENTAL OF PERSONAL PROPERTY: Section 1725 of the Education Law provides that:
 - (a) The Board of Education may enter into an agreement for the lease of personal property.
 - (b) The Board of Education must adopt a resolution stating the reason why such agreement is in the best financial interest of the district.
 - (c) The agreement may not exceed the current year unless the voters approve such agreement.
 - (d) Such agreements are subject to competitive bidding requirements if the total amount over the term of the contract exceeds the \$20,000 limit for purchase established by Section 103, General Municipal Law.



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Note Related Regulations: Sec. 16-1725, 16-1950(4)(y)
 Sec. 23-101, 23-103(1)(2), 23-103(2), 23-119

2. LEASE PURCHASING AGREEMENT FOR INSTRUCTIONAL EQUIPMENT:

The Board of Education may only enter into a lease purchase agreement for personal property as provided for in Section 1725-a of the Education Law which:

- (a) Authorizes such agreement for instructional equipment
- (b) Are subject to written approval of the Commissioner
- (c) Require formal bidding if the total amount over the term of the contract exceeds \$20,000

3. INSTALLMENT PURCHASE OF EQUIPMENT, MACHINERY AND APPARATUS:

Section 109(b) of the General Municipal Law enables school districts to enter into installment purchase contracts for data processing and office copying and other equipment, machinery and apparatus. The intent of the legislation is to:

- (a) Allow school districts to acquire ownership of the equipment upon completion of the contract.
- (b) Effect economies when the annual payment under an installment contract is less costly than an annual lease.

D. SPECIAL AREAS

1. COOPERATIVE BID ARRANGEMENTS:

School districts may enter into contracts with BOCES to furnish hardware, software, training and maintenance of instructional services for a period not to exceed five (5) years under Education Law (1950 Subdivision 4 JJ). This Law allows school districts to enter into such contracts, executed by the Boards of Trustees of the school districts and the Board of Cooperative Education Services. Contract is subject to the approval of the Commissioner.

2. STANDARDIZATION: Makes it possible for the governing board to standardize a particular type of material or equipment, but does not eliminate the necessity to conform to competitive bidding requirement. There is no longer a need for the inclusion of the term "or equivalent" after make or model. Where there are reasons of efficiency or economy to standardize, the Board of Education will determine by resolution (by 3/5 vote) there is a need to standardize purchase contracts for a particular type or kind of equipment, material or supplies.

3. TRANSPORATION AND CAFETERIA CONTRACTS: Covered by "Education Law" are subject to the same limits as "Purchase Contracts" except that transportation contracts may be entered into through an RFP instead of by



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competitive bid and, under special circumstances, may be renewed for up to five years.

GENERAL MUNICIPAL LAW, SECTION 104-b

E. PROCUREMENT OF MATERIAL UNDER BID LIMITS

Whenever feasible “Preferred Sources” and “Government Contracts” shall be used for purchases that are not required to be bid. When items are being purchased using “Preferred Sources” or “Government Contracts” and the amount of the purchase is greater than \$5000, the procedure below “Purchase of Commodities, Equipment of Goods” must be followed.

Although formal written quotes are not required on purchases below \$1,000 total, every attempt should be made to contact the vendors to procure the lowest prices possible. Written quotations must be on the vendor’s letterhead. Faxed quotations are acceptable.

Quotations are to be obtained based on the unit cost of the item. If increased quantities of an item are being purchased, but the total cost of the purchase is still under \$20,000, additional quotations may be requested at the discretion of the Purchasing Agent to ensure that the District is receiving the best possible pricing.

The following procedure will be followed for all other procurements not required to be bid:

PURCHASE OF COMMODITIES, EQUIPMENT OR GOODS

<u>Dollar Limit</u>	<u>Procedure</u>
\$1,000 –5,000	Documented verbal quotations from at least three separate vendors must be attached to the requisition.
\$5,001 – 15,000	Formal written quotations from three separate vendors must be attached to the purchase requisition.
\$15,001 – 19,999	Formal written quotes from five separate vendors must be attached to the purchase requisition.
\$20,000 and above	Formal sealed bids are required, in conformance with General Municipal Law, Section 103.



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\$1-1,000	At the discretion of the Purchasing Agent.
\$1,001-5,000	Verbal quotations from at least three separate vendors.
\$5,001 – 15,000	Written quotations from at least three separate vendors.
\$15,001 – 25,000	Formal written quotations from at least five separate vendors.
\$25,001 – 34,999	Formal Request for Proposal (RFP) with a response from at least three vendors.
\$35,000 and above	Formal sealed bids in conformance with General Municipal Law, Section 103.

Copies of quotations will be sent to Accounts Payable to be attached to the voucher package for review by the claims auditors. Such quotations will include the name, address and phone number of the vendor contacted, name of the contacted person, item to be purchased specifying quantity, brand name and model number, the unit price of each item, the extended price, and the total price of the order.

NOTE: In instances wherein the procurement of goods or services arises out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property, the life, health, safety or property of the inhabitants are involved, the Assistant Superintendent for Business may authorize an expenditure without regard to the above. Immediately following, a memorandum to the Superintendent and Board of Education shall explain how an emergency purchase meets the above criteria.

F. REJECTION OF LOW BIDDER

The district will provide justification and documentation, and the Board of Education will approve such documentation of any Bid awarded to other than the lowest responsible bidder (i.e., lowest 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. The reliability and/or past performance of the bidder providing the offer is a factor in determining the lowest responsible bidder. Unacceptable performance or products may include prior and/or current circumstance. The following list is provided for clarification only and is not intended to be all-inclusive. Any or all items may apply in a given case.

1. Inability to provide items as specified.
2. Inability to deliver materials or services in a timely fashion.
3. The substitution of alternate items to those bid without informing the district.
4. Varying from prescribed procedures and/or specifications for the performance of the service or contract without expressed permission of the district.



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5. Failure or difficulty in providing proper certificates of insurance or performance bonds when required.
6. Failure to provide samples of alternate bid items when requested.

ALSO:

Any bids submitted past the required bid opening time will be returned to the vendor unopened as per NYS regulations. Any bids submitted without proper bid deposit security specified in the General Conditions will be disqualified but may be reviewed at the discretion of the Purchasing Agent.

G. SAFEGUARDS

1. INTERNAL CONTROL

The Superintendent together with the Assistant Superintendent for Business and District Treasurer, will 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. Internal controls will be reviewed annually by the external auditor.

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.

2. REVIEW

The policies and procedures shall be reviewed and adopted annually at the District Reorganization Meeting, by the Board of Education. Comments concerning the policies and procedures shall be solicited from Administrators, Supervisors, Directors and Principals annually.

PURCHASING PROCESS

Requisitioner: Official, Supervisor, Director, or Principal initiating a request for goods or services.

The forms used in the purchasing process are:

Requisition: A written (or electronic) request for one or more items or services necessary to carry on or improve a particular function.



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Purchase Order: A formal notice/contract to a vendor to furnish the supplies or services described in detail thereon.

All locations throughout the district complete requisitions prior to the printing of purchase orders signed by the Administrator requesting goods or services, and forwarded to the Purchasing Department where it is proofed for accuracy and budget codes. Each department head is responsible for compliance with the purchasing procedures adopted.

All purchase orders are initialed by the appropriate Central Office designated Administrator and signed by the Purchasing Agent prior to mailing to vendor, thus certifying that money is available and that the appropriation has been encumbered.

Purchase Orders shall include the following essentials:

- a. A specification which adequately describes the characteristics and the quality standards of the item required.
- b. A firm, quoted, net delivered price, whenever possible. Prices shall be shown per unit and extended.
- c. Clear "Send To" instructions including location, department and person.
- d. Signature of Purchasing Agent.
- e. Budget account code number.

Request for Transfers:

In the event sufficient funds are unavailable in one code, a Request for Transfer of funds from one code to another should be in writing and directed to the Assistant Superintendent for Business. Budget transfers will be made in accordance with Policy 5330 Budget Transfers.

Blanket Orders may be issued to various vendors for the purpose of consolidating items that are purchased frequently from the same vendor, i.e., automotive supplies.

Confirming Purchase Orders will be used only in emergencies and kept to a minimum. All confirming purchase orders require prior administrative approval through the Business Office.

Quotations and Requests for Proposals will be adhered to as stated in the Policy Section under 104-b, General Municipal Law.

ALL QUESTIONS REGARDING EITHER THESE POLICIES OR THEIR IMPLEMENTATION SHOULD BE ADDRESSED TO THE PURCHASING AGENT OR THE ASSISTANT SUPERINTENDENT FOR BUSINESS AND FINANCE.

Adopted: July 11, 2012

Re-Adopted: July 5, 2022