

PURCHASING - REGULATION

The following sets forth the procedures for the procurement of goods and services by the district:

A. Definitions

1. *Purchase Contract:* a contract involving the acquisition of commodities, materials, supplies, or equipment
2. *Public Works Contract:* a contract involving services, labor, or construction

B. New York State General Municipal Law

The New York State General Municipal Law requires Purchase contracts for materials, equipment, and supplies involving an estimated annual expenditure exceeding \$10,000 and public works contracts involving an expenditure of more than \$20,000 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.

C. Competitive Bidding Required

1. Method of Determining Whether Procurement is Subject to Competitive Bidding

- a. The district will determine if the proposed procurement is a purchase contract or a contract for public works.
- b. If the procurement is either a purchase contract or a contract for public works, the district will then determine whether the amount of the procurement is above the applicable monetary threshold as set forth above in "B" above.
- c. The district will also determine whether any exceptions to the competitive bidding requirements (as set forth below) exist.

2. 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 **6700R.1**

criteria to apply to the contract, will determine whether the professional service or the purchase is the predominant part of the transaction.

3. Opening and Recording Bids: Awarding Contracts

The Purchasing Agent is 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.

4. 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 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 104b of the General Municipal Law. The district will provide justification and documentation of any such contract awarded.

5. Leases of Personal Property

In addition to the above mentioned competitive bidding requirements, Section 1725 of the Education Law requires that the district be subject to competitive bidding requirements for purchase contracts when it enters into a lease of personal property.

Documentation: The district will maintain documentation such as quotes, cost-benefit analysis of leasing versus purchasing, etc.

6. Legal Issues

Any legal issues regarding the applicability of competitive bidding requirements will be presented to the school attorney for review.

D. 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:

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1. When emergency situations exist:

- a. the situation arises out of an accident or unforeseen occurrences 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 of Education decides 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 secondhand 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 of Education separately purchases eggs, livestock, fish, and dairy products (other than milk), juice, grains, and species of fresh fruits and vegetables

directly from the 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 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 service purchased as compared to other items or services available in the marketplace; no other item or service provides

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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. 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 which ensures 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.

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, and name of vendor's representative;
- b. *Written Quotations:* Vendors will provide, at minimum, the date, description of the item or details of service to be provided, price quoted, and name of contact. 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;
- c. *Requests for proposals:* 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 RFPs may include negotiations on a fair and equal basis. The RFPs and evaluations of such proposals will consider price plus other factors such as:
 - (1) the special knowledge or expertise of the professional or consultant service;
 - (2) the quality of the service to be provided;
 - (3) the staffing of the service; and
 - (4) the suitability for the district's needs.

The district will prepare a well-planned RFP which will contain critical details of the engagement, including the methods which it will use in selecting the service.

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2. Purchase/Public Works: Methods of Competition to be Used for Non-Bid Procurements: Documentation to be Maintained

The district will require the following methods of competition to be used and sources of documentation maintained when soliciting non-bid procurements in the most cost-effective manner possible:

- a. Purchase Contracts up to \$10,000
 - (1) Contracts from \$501 to \$1,000 - Verbal quotes.
Documentation will include notations of verbal quotes.
 - (2) Contracts from \$1,001 to \$10,000 - Written quotes.
- b. Public Works Contracts up to \$20,000
 - (1) Contracts from \$1,001 to \$5,000 - Verbal quotes.
Documentation will include notations of verbal quotes.
 - (2) Contracts from \$5,001 to \$20,000 - Written quotes.
- c. Emergencies - Verbal quotes.
Documentation will include notations of verbal quotes.
- d. Professional Services: RFP
Documentation will include written proposals.
- e. 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.
- f. Second Hand Equipment from Other Governments - Written quotes.
Documentation will include market price comparisons (verbal or written quotes) and the name of the government.
- g. 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.
- h. 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

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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.

F. 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.

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

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

G. 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.

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H. Internal Control

The Board authorizes 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 be adopted by Board resolution. All district regulations regarding the procurement processes will be reviewed by the Board annually.

EXPLANATION OF "OTHER" METHODS OF COMPETITION TO BE USED
FOR
NON-BID PROCUREMENTS

Emergencies: Informal solicitation of quotes or otherwise, to the extent practicable under the circumstance.

Leases of Personal Property: Section 1725 of the Education Law requires that a district be subject to competitive bidding requirements for purchase contracts when it enters into a lease of personal property.

Second-Hand Equipment from Federal and State Governments: Section 103(6) of the General Municipal Law provides a statutory exception to the competitive bidding requirement by permitting the purchase of surplus and second-hand supplies, materials, or equipment without competitive bidding from the federal or State governments or from any other political subdivision or public benefit corporation with the State.

Certain Food and Milk Purchases: Section 103(a) (10) of the General Municipal Law provides a statutory exception to the competitive bidding requirement by permitting a Board of Education to separately purchase eggs livestock, fish and dairy products (other than milk), juice, grains, and species of fresh fruits and vegetables directly from producers or growers without bidding.

Sold Source: Section 103 of the General Municipal Law provides a statutory exception to the competitive bidding requirement in limited situation where there is only one possible source from which to procure goods or services required in the public interest (such as in the case of certain patented goods or services or public utility services).

Note: Prior policies, Policy Manual, 3310.1(a)(b)(c)(d)(e)(f)(g), revised

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Wayne Central School District