

POLICY

Non-Instructional/
Business Operations

5410
1 of 9

Adopted 1.25.2016
Revised 7.9.2018

SUBJECT: PURCHASING

The District's purchasing activities will be part of the responsibilities of the Business Office, under the general supervision of the Purchasing Agent designated by the Board of Education. The purchasing process should enhance school operations and educational programs through the procurement of goods and services deemed necessary to meet District needs.

Competitive Bids and Quotations

As required by law, the Superintendent will follow normal bidding procedures in all cases where needed quantities of like items will total the maximum level allowed by law during the fiscal year, (similarly for public works-construction, repair, etc.) and in such other cases that seem to be to the financial advantage of the School District.

A bid bond may be required if considered advisable.

No bid for supplies shall be accepted that does not conform to specifications furnished unless specifications are waived by Board action. Contracts shall be awarded to the lowest responsible bidder who meets specifications. However, the Board may choose to reject any bid.

Rules shall be developed by the administration for the competitive purchasing of goods and services.

The Purchasing Agent may authorize purchases within the approved budget without bidding if required by emergencies and are legally permitted.

The Purchasing Agent is authorized to enter into cooperative bidding for various needs of the School District.

Request for Proposal Process for the Independent Auditor

In accordance with law, no audit engagement shall be for a term longer than five (5) consecutive years. The District may, however, permit an independent auditor engaged under an existing contract for such services to submit a proposal for such services in response to a request for competitive proposals or be awarded a contract to provide such services under a request for proposal process.

Procurement of Goods and Services

The Board of Education recognizes its responsibility to ensure the development of procedures for the procurement of goods and services not required by law to be made pursuant to competitive bidding requirements. These goods and services must be procured in a manner so as to:

Continued

POLICY

Non-Instructional/
Business Operations

5410
2 of 9

Adopted 1.25.2016
Revised 7.9.2018

SUBJECT: PURCHASING (Cont'd.)

- a) Assure the prudent and economical use of public moneys in the best interest of the taxpayer;
- b) Facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances; and
- c) Guard against favoritism, improvidence, extravagance, fraud and corruption.

These procedures shall contain, at a minimum, provisions which:

- a) Prescribe a process for determining whether a procurement of goods and services is subject to competitive bidding and if it is not, documenting the basis for such determination;
- b) With certain exceptions (purchases pursuant to General Municipal Law, Article 5-A; State Finance Law, Section 162; State Correction Law, Section 184; or those circumstances or types of procurements set forth in (f) of this section), provide that alternative proposals or quotations for goods and services shall be secured by use of written request for proposals, written quotations, verbal quotations or any other method of procurement which furthers the purposes of General Municipal Law Section 104-b;
- c) Set forth when each method of procurement will be utilized;
- d) Require adequate documentation of actions taken with each method of procurement;
- e) Require justification and documentation of any contract awarded to other than the lowest responsible dollar offer, stating the reasons;
- f) Set forth any circumstances when, or the types of procurement for which, the solicitation of alternative proposals or quotations will not be in the best interest of the District; and
- g) Identify the individual or individuals responsible for purchasing and their respective titles. Such information shall be updated biennially.

Any unintentional failure to fully comply with these provisions shall not be grounds to void action taken or give rise to a cause of action against the District or any District employee.

The Board of Education shall solicit comments concerning the District's policies and procedures from those employees involved in the procurement process. All policies and procedures regarding the procurement of goods and services shall be reviewed annually by the Board.

Continued

POLICY

Non-Instructional/
Business Operations

5410
3 of 9

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Revised 7.9.2018

SUBJECT: PURCHASING (Cont'd.)

Best Value

Effective January 27, 2012, General Municipal Law (GML) Section 103 was amended to permit the school district to award purchase contracts in excess of twenty thousand dollars (\$20,000) on the basis of "best value", rather than on the basis of the lowest responsible bid. The Board of Education must adopt a resolution at a public meeting authorizing the award of bids based on "best value." The Board of Education may also approve "best value" bid award recommendations on an individual bid basis at a scheduled public meeting. A best value award is one that optimizes quality, cost and efficiency, typically applies to complex services and technology contracts and is quantifiable whenever possible.

"Piggybacking" Law - Exception to Competitive Bidding

On August 1, 2012, General Municipal Law (GML) Section 103 was amended to allow the school district to purchase certain goods and services (apparatus, materials, equipment and supplies) through the use of contracts let by the United States or any agency thereof, any state, and any county, political subdivision or district of any state. The amendment authorizes the school district to "piggyback" on contracts let by outside governmental agencies in a manner that constitutes competitive bidding "consistent with state law."

This "piggybacking" is permitted on contracts issued by other governmental entities, provided that the original contract:

- a) Has been let by the United States or any agency thereof, any state (including New York State) or any other political subdivision or district therein;
- b) Was made available for use by other governmental entities and agreeable with the contract holder; and
- c) Was let in a manner that constitutes competitive bidding consistent with New York State law and is not in conflict with other New York State laws.

The "piggybacking" amendment and the "best value" amendment may not be combined to authorize a municipality to "piggyback" onto a cooperative contract which was awarded on the basis of "best value." In other words, while the school district may authorize the award of contracts on the basis of "best value", it may not "piggyback" onto a purchasing contract awarded by another agency on the basis of "best value."

Continued

SUBJECT: PURCHASING (Cont'd.)

Alternative Formats for Instructional Materials

Preference in the purchase of instructional materials will be given to vendors who agree to provide materials in a usable alternative format (i.e., any medium or format, other than a traditional print textbook, for presentation of instructional materials that is needed as an accommodation for each student with a disability, including students requiring Section 504 Accommodation Plans, enrolled in the School District). Alternative formats include, but are not limited to, Braille, large print, open and closed captioned, audio, or an electronic file in an approved format as defined in Commissioner's Regulations.

As required by federal law and New York State Regulations, the District has adopted the National Instructional Materials Accessibility Standard (NIMAS) to ensure that curriculum materials are available in a usable alternative format for students with disabilities. The district will be responsible to ensure that each student who requires instructional materials in an alternate format will receive it in a timely manner and in a format that meets NIMAS standards.

The District will establish a plan to ensure that instructional materials in a usable alternative format for each student with a disability (including students requiring Section 504 Accommodation Plans) are based upon the student's educational needs and course selections, and will be available at the same time as such instructional materials are available to non-disabled students.

Such Plan will:

- a) Ensure that the District gives a preference in the purchase of instructional materials it has selected for its students to those vendors who agree to provide such instructional materials in alternative formats;
- b) Specify when an electronic file is provided, how the format will be accessed by students and/or how the District will convert to an accessible format;
- c) Specify the process to be used when ordering materials to identify the needs of students with disabilities residing in the District for alternative format materials;
- d) Specify ordering timelines to ensure that alternative format materials are available at the same time as regular format materials are available; and
- e) Include procedures so that when students with disabilities move into the School District during the school year, the process to obtain needed materials in alternative formats for such students is initiated without delay.

POLICY

Non-Instructional/
Business Operations

5410
5 of 9

Adopted 1.25.2016
Revised 7.9.2018

SUBJECT: PURCHASING (Cont'd.)

Geographic Preference in Procuring Local Agricultural Products

Schools participating in Child Nutrition Programs such as the National School Lunch Program, School Breakfast Program and/or Special Milk Program are encouraged to purchase unprocessed locally grown and locally raised agricultural products. The School District may apply an optional geographic preference in the procurement of such products by defining the local area where this option will be applied. The intent of this preference is to supply wholesome unprocessed agricultural products that are fresh and delivered close to the source.

A geographic preference established for a specific area adds additional points or credits to bids received in response to a solicitation, but does not provide a set-aside for bidders located in a specific area, nor does it preclude a bidder from outside a specified geographic area from competing for and possibly being awarded a specific contract.

Computer Software Purchases

Software programs designated for use by students in conjunction with computers of the District shall meet the following criteria:

- a) A computer program which a student is required to use as a learning aid in a particular class; and
- b) Any content-based instructional materials in an electronic format that are aligned with State Standards which are accessed or delivered through the internet and based on a subscription model. Such electronic format materials may include a variety of media assets and learning tools including video, audio, images, teacher guides, and student access capabilities as such terms are defined in Commissioner's Regulations.

Environmentally Sensitive Cleaning and Maintenance Products

In accordance with Commissioner's Regulations, State Finance Law and Education Law, effective with the 2006-2007 school year, the District shall follow guidelines, specifications and sample lists when purchasing cleaning and maintenance products for use in its facilities. Such facilities include any building or facility used for instructional purposes and the surrounding grounds or other sites used for playgrounds, athletics or other instruction.

Environmentally sensitive cleaning and maintenance products are those which minimize adverse impacts on health and the environment. Such products reduce as much as possible exposures of children and school staff to potentially harmful chemicals and substances used in the cleaning and maintenance of

Continued

POLICY

Non-Instructional/
Business Operations

5410
6 of 9

Adopted 1.25.2016
Revised 7.9.2018

SUBJECT: PURCHASING (Cont'd.)

school facilities. The District shall identify and procure environmentally sensitive cleaning and maintenance products which are available in the form, function and utility generally used. Coordinated procurement of such products as specified by the Office of General Services (OGS) may be done through central state purchasing contracts to ensure that the District can procure these products on a competitive basis.

The District shall notify their personnel of the availability of such guidelines, specifications and sample product lists.

Apparel and Sports Equipment Purchases

Competitive Bidding Purchases

The Board of Education will only accept bids from "responsible bidders." A determination that a bidder on a contract for the purchase of apparel or sports equipment, is not a "responsible bidder" shall be based upon either or both of the following considerations:

- a) The labor standards applicable to the manufacture of the apparel or sports equipment including, but not limited to, employee compensation, working conditions, employee rights to form unions, and the use of child labor; or
- b) The bidder's failure to provide information sufficient for the Board of Education to determine the labor standards applicable to the manufacture of the apparel or sports equipment.

Non - Competitive Bidding Purchases

The Board's internal policies and procedures governing procurement of apparel or sports equipment, where such procurement is not required to be made pursuant to competitive bidding requirements, shall prohibit the purchase of apparel or sports equipment, from any vendor based upon either or both of the following considerations:

- a) The labor standards applicable to the manufacture of the apparel or sports equipment including, but not limited to, employee compensation, working conditions, employee rights to form unions, and the use of child labor; or
- b) The bidder's failure to provide information sufficient for the Board of Education to determine the labor standards applicable to the manufacture of the apparel or sports equipment.

No Board member or employee of the School District shall have an interest in any contract entered into by the Board or the School District.

Continued

POLICY

Non-Instructional/
Business Operations

5410
7 of 9

Adopted 1.25.2016
Revised 7.9.2018

SUBJECT: PURCHASING (Cont'd.)

Contracts for Goods, Services and Public Works

No contracts for goods and services shall be made by individuals or organizations in the school that involve expenditures without first securing approval for such contract from the Purchasing Agent.

Per General Municipal Law Section 103(5), upon the adoption of a resolution by a vote of at least three-fifths (3/5) of all Board members stating that for reasons of efficiency or economy there is need for standardization, purchase contracts for a particular type or kind of equipment, materials or supplies of more than twenty thousand (\$20,000) dollars may be awarded by the Board to the lowest responsible bidder furnishing the required security after advertisement for sealed bids in the manner provided in law. In addition, the Board is required to award all contracts for public works in excess of thirty-five thousand dollars (\$35,000) to the lowest responsible bidder after advertising for public sealed bids.

E-Procurement

Another possibility for increasing competition as well as convenience is to accept bids or offers electronically. The law authorizes school districts to receive electronic bids or offers in connection with purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to article eight of the Labor Law). The Business Office is authorized to accept the receipt of bids or offers in an electronic format. The advertisement for bids or offers must designate how the electronic bid or offer will be received, such as designating the website or email address where the bid or offer should be sent.

With the exception of “technology contracts,” the submission of bids or offers in electronic format may not be required as the sole method, and paper bids or offers must still be accepted. All other minimum requirements of the competitive bidding or competitive offering process remain the same (e.g., advertising in the official newspaper, public opening of bids or offers, etc.).

Any method used to receive electronic bids or offers must also comply with article three of the State Technology Law (the “Electronic Signatures and Records Act”) and related regulations. Also, the method used must, at a minimum:

- Document the time and date of receipt of the bids or offers received electronically,
- Authenticate the identity of the sender,
- Ensure the security of the information transmitted and
- Ensure the confidentiality of the bid or offer until the time and date established for the opening of bids or offers.

Continued

POLICY

Non-Instructional/
Business Operations

5410
8 of 9

Adopted 1.25.2016
Revised 7.9.2018

SUBJECT: PURCHASING (Cont'd.)

Professional Services

Professional services are an exception to competitive bidding and generally include services rendered by attorneys, engineers, and certain other services requiring specialized or technical skills, expertise or knowledge, the exercise of professional judgment or a high degree of creativity. In addition, insurance coverage (e.g., health, fire, liability, and workers' compensation) is also not subject to competitive bidding requirements.

The district shall secure professional services in a manner to ensure these procurements are secured in a manner that protects the integrity of the process, ensures prudent use of taxpayer dollars and provides a high quality standard of service. The Board of Education recognizes there are circumstances when it is not feasible to engage in an RFP process. Accordingly, the Board of Education reserves the right, upon the recommendation of the Superintendent, to waive the RFP process when it is deemed to be in the best interests of the District.

Regardless of when during the year the professional service provider was engaged by the Board, at the annual organizational meeting the Board will appoint the attorney, physician, external auditor, or other professional, as applicable. Professional service providers selected and appointed in this manner will not be considered employees of the district.

Conflict of Interest

No officer, or employee will have an interest in any contract with the district when such employee has the authority or the responsibility to negotiate, prepare, authorize or approve a contract or authorize or approve its payment, audit bills or claims, or appoint an officer or employee who has any of these responsibilities. Any officer or employee who has or acquires an interest in any actual or proposed contract with the district shall publicly disclose the nature and extent of such interest in writing. This written disclosure will be kept on file.

Federally Funded Purchasing Conflict of Interest Statement:

No employee, officer or agent may participate in the selection, award, or administration of a contract supported by a Federal award if there is a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer or agent, or any member of his or her immediate family, partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees or agents can neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. Disciplinary actions will be applied for violations of such standards.

Continued

POLICY

Non-Instructional/
Business Operations

5410
9 of 9

Adopted 1.25.2016
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7 CFR 210.21, 215.14(a) and 220.16

20 USC Section 1474(e)(3)(B)

Education Law Sections 305(14), 409-I, 701, 751(2)(b), 1604, 1709, 1950, 2503, 2554 and 3602

General Municipal Law Articles 5-A, 18 and Section 103

State Finance Law Sections 162 and 163-b

8 NYCRR Sections 155, 170.2, 200.2(b)(10), 200.2(c)(2) and 200.2(i)

NOTE: Refer also to Policy #5660 -- School Food Service Program (Lunch and Breakfast)

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