

## PURCHASING REGULATION

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 \$20,000 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 (refer to section IV).

#### 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 or Departmental Directors 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 bid, setting forth the reasons therefore.

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, in addition to a traditional print textbook, that is needed as an 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. This includes bus leases as well.

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 that 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 district 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 district 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;

- 6. When there is only one possible source from which to procure goods or services required in the public interest.

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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; or

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 use an RFP process for any professional services in excess of \$20,000.

### V. Quotes When Competitive Bidding Not Required

Goods and services that 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, and 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, and name of contact.
3. Requests for Proposals: the district will utilize (an RFP process) to engage professional services providers for any professional services in excess of \$20,000.

Refer to Exhibits 6700-E.1 and 6700-E.2 for further requirements as to type and number of quotes or other required documentation.

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 \$20,000 and Public Work Contracts up to \$35,000: refer to Exhibit 6700-E.1 for required number of verbal or written quotes, depending on dollar volume of purchases.
2. Emergencies: Verbal quotes, insofar as practicable under the exigent circumstances. Documentation will include notations of verbal quotes.
3. Property, Casualty and Liability Insurance: “Requests for Proposals” (RFPs), should be issued on a 7-year cycle.
4. Professional Services: Documentation will include an RFP if services exceed \$20,000 and written proposals if services are less than \$20,000.
5. Second Hand Equipment from Other Governments: Documentation will include market price comparisons (verbal or written quotes) and the name of the government.
6. Written Quotes for Certain Food and Milk Purchases: Documentation will be consistent with sections 114.3 and 114.4 of the Regulations of the Commissioner of Education.
7. Certain Municipal Hospital Purchases: Documentation will include the legal authorization, Board authorization, and market price comparisons.
8. Sole Source: 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. In addition, the district will document that there is no possibility of competition for the procurement of the goods.

VI. Exceptions to Competitive Bidding Requirements

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. Awards to 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.

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, 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.

Input From Administrators

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.

Annual Review

All district regulations regarding the procurement processes will be reviewed by the Board at least annually.

Conflict of Interest

No person employed by the district shall negotiate or execute any contract on behalf of the district for the purchase, sale or lease of real or personal property, services of any nature, or for insurance with any business in which an immediate family member is a principal within said business. (# 9120.1 Conflict of Interest, BCSD Policy Manual)

Any proposed purchases from businesses owned by an employee of the district must be reviewed and approved in advance by the Chief Business and Financial Officer.

Cooperative Purchasing

With Board approval, the district may participate in cooperative purchasing activities with other school districts, BOCES, or local government entities (GML§ 119-o).

Unintentional Failure to Comply

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.

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