
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

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

The following sets forth the procedures for the procurement of goods and services by the School 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 or more than **\$35,000** will be awarded only after responsible bids have been received in response to a public advertisement soliciting formal bids. Similar procurement to be made in a fiscal year will be grouped together for the purpose of determining whether a particular item must be bid.

If in excess of bid limits, the following is also subject to General Municipal Law 103:

- Lease/rental of personal property (Section 1725 of Education Law);
All leases and rental agreements shall be signed by the Superintendent of Schools and/or the Business Manager.
- “Lease Purchasing” agreement for instructional equipment (Section 1725-A of Education Law);
- “Installment Purchase” of equipment, machinery and apparatus (Section 109-B of General Municipal Law);
- Cooperative Bid Arrangements (Section 119-0 of General Municipal Law);
- Standardization (Section 103 of General Municipal Law); and
- Transportation contracts and cafeteria contracts covered by “Education Law” are subject to same limits as “Purchase Contracts” under Section 103 of General Municipal Law 9 Section 305, Subdivision 14, Education Law.

III. Competitive Bidding Required

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

1. The School 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 School District will then determine whether the amount of the procurement is above the applicable monetary threshold as set forth above.
3. The School 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 School 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

Only the Purchasing Agent will be authorized to open and record bids and to commit the School District to a purchase. Appropriate School District administrators shall be consulted in making purchasing recommendations to the Purchasing Agent and to the Board of Education for bid award recommendations. Contracts will be awarded to the lowest responsible bidder, who has furnished the required security after responding to an advertisement for sealed bids.

When it is in the best interests of the School District, contracts for purchases or materials, supplies or equipment (except printed materials), may be awarded to a responsive and responsible bidder on the basis of "best value" in accordance with the requirements of General Municipal Law, section 103 and State Finance Law, section 163. When the School District determines to award a purchase contract on the basis of "best value," the bid specifications shall identify the criteria and rating system to be utilized in making a "best value" determination. The purchasing agent shall maintain documentation reflecting said criteria and rating system, as well as the evaluation of each bidder's bid in connection with same.

Opportunity shall be provided to all responsible suppliers to do business with the School District. Supplier located within the School District may be given preferential consideration only when the bid submitted is identical to the low bidder. *The School District will give a preference in the purchase of instructional material to those vendors who agree to provide such materials in alternative formats for students with disabilities.*

D. Documentation of Competitive Bids

The School District shall maintain written documentation which shall include, but not be limited to, the method in which it determined whether the procurement is a purchase or a public work contract, Board of Education Resolutions, Memoranda, Written Quotes, Telephone Logs, RFP's, Proposals, Contracts, References, Original Bids and all related data including documentation when a contract is not awarded to the vendor submitting the lowest quote, setting forth the reasons therefore. 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.

The School 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.

IV. *Quotes When Competitive Bidding Not Required*

Goods and services which are not required by law to be procured by the School 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.

The Purchasing Agent shall handle routine purchasing and shall have authorization to purchase supplies, equipment and services, not subject to the New York State bid law consistent with all appropriate provisions of law and as described in the Purchasing Manual/Policy. The Purchasing Agent, in cooperation with appropriate administrators, shall have authorization to purchase equipment, furniture, supplies and services not subject to the New York State bid law.

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 quote which exceeds the budgetary limit will be awarded only when such award is in the best interests of the School District and otherwise furthers the purposes of section 104-b of the General Municipal Law. The School District will provide justification and documentation of any such contract awarded. The School District will also provide and document any contract awarded to a vendor other than the lowest dollar offeror.

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. Quotations may be requested by either the Business Department or the ordering department, as appropriate, from the vendors who can provide the item or service required. Quotations must be documented by the ordering department and verified by the Purchasing Agent;
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. Written

formal quotations shall be required as per the Board of Education established guidelines. Written quotations shall be supervised and/ or administered by the Purchasing Agent,

Quotations from prospective bidders who are unable to supply the required goods or service and offer a "No Quote" response to a request are not to be counted toward compliance with this requirement. In the best interest of the School District the Purchasing Agent may initiate the formal sealed bid process for any product or service, based on market conditions, an awareness of competitive advantage or an anticipated increase in cumulative purchased totals for a given commodity or class or materials;

3. Requests for Proposals: The School District will prepare a well-planned RFP which will contain critical details of the goods/services, procurement, including the methods which it will use in selecting the service. The School District will consider the following factors in developing its RFP:

- the special knowledge or expertise of the professional or consultant service;
- the quality of the service to be provided;
- the staffing of the service; and
- the suitability for the School District's needs.

The School District may locate prospective qualified firms by:

- advertising in trade journals;
- checking listings of professionals; and/ or
- making inquiries of other districts or other appropriate sources.

4. Procurement of Professional Services:

The School District may engage the services of professionals without the need for seeking alternative proposals. The individual or company should be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity, and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

B. *Purchases/ Public Work: Methods of Competition to be Used for Non-Bid Procurement; Documentation to be Maintained*

Quotes/ bids should be used only when all other means of purchasing have been exhausted. Quotes must be obtained for all purchases under the bid limits listed below. Limits are total cost of similar items/services to be purchased in a fiscal year - not per

purchase order or per job. Quotes will be processed at the discretion of the Purchasing Agent.

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

1. *District-Wide Purchase Contracts below \$20,000 (including service contracts for work not covered by Article 8 of the Labor Law)*
 - a. **Less than \$100.00:** No quote required unless requested by the purchasing department.
 - b. **\$101 - \$1,000:** Three verbal quotes to include all vendor discounts and fees. Paperwork to be completed by budget supervisor, at their location. Documentation must be attached to Purchase Order.
 - c. **\$1,001 to \$10,000:** A minimum of three written quotes, to include all vendor discounts and fees. Documentation form will be made available by the Purchasing Department. Paperwork to be completed by budget supervisor at their location. Documentation must be attached to Purchase Order.
 - d. **\$10,001 - \$20,000:** A minimum of three written quotes to be solicited by the Business Office. Specifications and vendor list to accompany request for quote.

Any purchases over \$20,000.00 require the Business Office to go out for a formal bid.

2. *District-Wide Public Works Contract below \$35,000*

All price quotes for public work contracts must contain a prevailing wage schedule. Please contact the Business Office for prevailing wage schedule information.

Limits below are total cost of similar services to be performed during the entire fiscal year.

- a. **Less than \$10,000:** A minimum of three written quotes, to include all vendor discounts and fees. Documentation form will be made available by the Purchasing Department. Paperwork will be completed by budget supervisor at their location. Documentation must be attached to Purchase Order.
- b. **\$10,001 - \$35,000:** A minimum of three written quotes to be solicited by the Purchasing Department. Specifications and vendor list to accompany request for quote.

Payment to vendors will not be processed without certified payroll.

Any public works contract over \$35,000.00 requires the Business Office to go out for a formal bid.

**The Business Manager may request quotes on items that are similar or related to items that may be found on NYS/County/BOCES or East Quogue bids.*

C. Purchases/Public Works: Methods of Competition for Procurements Specifically Exempted from Competitive Bidding Requirements:

Competitive bidding, as set forth in General Municipal Law, section 103, is not required where procurements are made in the following situations. The School District will not be required to secure alternative proposals or quotations for these procurements. However, documentation from the vendors supplying said goods/services, as indicated, will be maintained by the School District:

1. in emergency situations where:

- a. the situation arises out of an accident or unforeseen occurrence or condition;
- b. a School District building, property, or the life, health, or safety of an individual on School District property is affected; or
- c. the situation requires immediate action which cannot await competitive bidding.

The Board of Education may pass a resolution which shall declare an emergency prior to the purchase, if feasible. However, when the Board of Education passes such a resolution that an emergency situation exists, the School 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.

When it is not feasible to obtain a resolution passed by the Board of Education prior to the purchase, the Business Manager and the Superintendent of Schools must be notified that an emergency situation exists. Approval to make necessary purchases must be obtained from the Business Manager and/or Superintendent of Schools. They will then be responsible for notifying the Board of Education of the emergency situation.

Documentation: A memorandum may be filed with a copy of the purchase order attached which will explain how the purchase meets the criteria for an emergency exception. The School District shall maintain records of verbal (or written) quotes. Documentation must be attached to the purchase order showing that proper notifications were made and approvals were obtained.

2. when the School 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 School District will maintain market price comparisons (verbal or written quotes) and the name of the government entity.

3. when the School 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 School District will maintain the legal authorization, Board of Education authorization and market price comparisons.

4. when there is only one possible source from which to procure goods or services required in the public interest.

Documentation: The School 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 good. Such documentation shall be attached to the purchase order.

5. when the School District purchases goods, supplies and services from New York State Office of General Services.

Documentation: The School District will maintain written documentation of the New York State Office of General Services contract award, including the OGS award number and date.

6. when the School District procures goods/services pursuant to a Suffolk County contract for which the School District is eligible for participation.

Documentation: The School District will maintain written legal authorization, Board of Education authorization and documentation from Suffolk County concerning the terms of use and scope of said contract.

7. when the School District procures goods/ services pursuant to participation in a cooperative bidding consortium.

Cooperative purchasing shall be promoted with other school districts, Board of Cooperative Educational Services and Government Entities whenever feasible. The School District shall participate in such bids when opportunities arise that will have cost-effective results.

Participation in Cooperative Bidding Consortiums must be pre-authorized by resolution of the Board of Education.

Documentation: shall include contact number and name of governmental agency. The School District will maintain legal authorization and Board of Education authorization for the procurement.

8. when the School District procures goods/ services pursuant to a contract let by the United States of America or any agency thereof, any state or any other county or political subdivision therein.

Whenever it is feasible, in the best interests of the School District and permitted by applicable contract terms, purchases or material, supplies or equipment (except printed material), shall be made through New York State and County Government contracts. Prior to making such purchases or contracts, the School District shall consider whether such contract will result in cost savings after all factors, including chargers for service, material, and delivery, have been considered. The School District, may, when permitted by law and applicable contract terms, utilize contracts let by the United States of America, any agency thereof, any state or any other county or political subdivision or School District therein if such contract was let in a manner consistent with New York State law and made available for use by the School District.

Documentation: shall include contact number and name of governmental agency. The School District will maintain legal authorization and Board of Education authorization for the procurement.

9. when the School District procures goods manufactured in state correctional institutions, Industries for the Blind of NYS, and NYS Industries for the Disabled.

Documentation: shall include contact number and name of governmental agency;

10. when the School District procures professional services or services requiring special or technical skills, training, or expertise, such as: legal and medical services; property appraisals; engineers and architects; investment management; auditing; and claims management. The Board of Education may solicit requests for proposals if it is in the best interest of the School District.

Documentation: shall include quotes and proposals and all related data.

11. when the School District purchases food items exempt from bidding as indicated under General Municipal Law section 103(9).

Documentation: shall include documentation consistent with section 114.3 and 114.4 of the Regulations of the Commissioner of Education.

12. when the School District purchases insurance, as there is an obligation to the taxpayer to adopt insurance practices that will obtain the best coverage for the lowest cost.

Documentation: shall include quotes and proposals and all related data.

13. when the School District purchases from monopolies. Competitive bidding is not required where object of the contract is controlled by a monopoly, such as in the case of natural gas and electric utilities.

Documentation: shall include name of governmental agency.

14. when the School District contracts for state-mandated operations that require certifications of contracts, such as inspection of underground gas tanks.

Documentation: shall include all related data.

15. When the School District purchases information technology and telecommunications hardware, software and professional services through cooperative purchasing permissible pursuant to federal general services administration information technology schedule seventy or any successor schedule.

Documentation: The School District will maintain legal authorization and Board of Education authorization for the procurement.

In all cases, the Board of Education may elect to solicit proposals, if it is deemed in the best interest of the School District.

V. *Procurement from Other than the "Lowest Responsible Dollar Offeror"*

Bids shall be awarded to the lowest responsible bidder whose product or service meets or exceeds specifications. The person or persons participating in the decision determining if a bidder is or is not responsible must provide written justification and documentation on such statements. This information will become part of the bid file.

The past performance and/or reliability of the bidder providing the product/service shall be a factor in determining the lowest responsible bidder.

It shall be the practice of this School District to maintain accurate and complete records as to the performance of any contractor/vendor so that "failure to perform" can be well documented.

Further, the School District shall cooperate fully with other school districts in providing such information between and amongst themselves for the purposes of selecting the lowest responsible bidder in future contracts or bids for goods or services.

The School 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 School District and otherwise furthers the purposes of section 104-b of the General Municipal Law.

VI. *Internal Control*

The Board of Education authorizes the Business Manager to establish and maintain an internal control structure to ensure, to the best of their ability, that the School District's assets will be safeguarded against loss from unauthorized use or disposition, that transactions will be executed in accordance with the law and School District policies and regulations, and recorded properly in the financial records of the School District.

The East Quogue Union Free School District will not be responsible for purchases made without prior authorization. Employees deviating from this procedure will be notified immediately.

All School District regulations regarding the procurement processes will be reviewed by the Board of Education at least annually. The unintentional failure to fully comply with the provisions of section 104-b of the General Municipal Law or the School District's regulations regarding procurement will not be grounds to void action taken or give rise to a cause of action against the School District or any officer or employee of the School District.

VII. *Standardization*

The Board of Education may standardize by resolution on a particular type of material or equipment. Standardization restricts a purchase to a specific model or type of equipment or supply. For example, to limit the purchase of trucks to a specific manufacturer or model on the basis of past performance. The resolution, shall state that for reasons of efficiency and/or economy there is a need for standardization. There shall be a full explanation supporting the action.

The adoption of such a resolution does not eliminate the necessity for conformance to the competitive bidding requirements

VIII. *Notice to Vendors*

Written notice shall be available to all suppliers detailing the School District's purchasing policy. Vendors deviating from the approved purchasing policy shall be informed of the possible consequences, including, but not limited to, removal from vendor list.

Implied authority shall not bind the School District to purchases not approved by the Purchasing Agent.

The following statement may be stamped on all purchase orders, and/or included in vendor notification of School District policy.

"Please be advised that if you provide product or service to the East Quogue School District

without a written Purchase Order, signed by the Purchasing Agent, you do so at your own risk. You have NO assurance of payment."

IX. Sales Calls and Product Demonstrations

Sales calls and product demonstrations must be arranged through the Purchasing Agent in cooperation with the appropriate administrator. Visits by vendors to School District employees are not permitted without prior notification to and approval by the Purchasing Agent in cooperation with the appropriate administrator. No purchase may be transacted during this demonstration or sales call. All purchases must be made in compliance with School District approved Purchasing Policy. Visits by vendors to teachers during instructional hours are not permitted.

Vendors deviating from the approved purchasing procedure will be notified of the possible consequences, including but not limited to, removal from vendor list.

Consultation with legal counsel shall be considered prior to declaring a vendor irresponsible.

X. Equipment Designation

Items meeting the following criteria shall be classified as equipment:

An equipment item is a movable or fixed unit of furniture or furnishings, an instrument, a machine, or an apparatus, or a set of articles which meets all of the following conditions:

- it retains its original shape and appearance with use.
- it is non-expendable, that is, if the article is damaged or some of its parts are lost or worn out, it is usually more feasible to repair it rather than replace it with an entirely new unit.
- it does not lose its identity through incorporation into a different or more complex unit or substance.
- cost exceeds \$5,000.00, as approved by the Board of Education.

XI. Capital Equipment Purchasing

Capital equipment purchasing shall be the responsibility of the Business Manager. Architects shall not purchase equipment for capital construction projects unless requested to do so by the School District. The same purchasing authority and policies of the Board of Education apply to capital equipment purchasing as purchasing goods and services from general budget funds.

XII. Quality, Cost Control, Repair, Replacement or Purchases

The Board of Education shall purchase the highest quality goods and services at the most reasonable cost within its budget limitations. Specifications developed by the Purchasing Agent, or his/her designee, after recommendations have been received from appropriate administrators. Cost control on all purchases of equipment, supplies and/or services is to be carried out by the

Purchasing Agent with recommendations from appropriate administrators to obtain the quality desired and/or services requested.

If the cost of repair of an item exceeds 75% of the cost to replace the item, the Purchasing Agent may, in cooperation with the appropriate administrator and within the approved budget, authorize the purchase of a new item in lieu of repair.

XIII. Energy Efficient Purchasing

- A. *Energy Efficient Items:* The Board of Education authorizes the purchase of energy efficient items, whenever practical.
- B. *Recycled Materials:* The Board of Education authorizes the use of recycled products whenever practical.
- C. *"Green" Product Purchasing:* In accordance with Education Law 409-I, the School District shall follow the guidelines, specifications and sample list of environmentally sensitive cleaning and maintenance products provided by the Commissioner of General Services when purchasing and utilizing such products in its facilities.

XIV. Purchase Orders

The Purchasing Agent shall be authorized to issue pre-numbered or computer generated purchase orders for all goods and services for which an appropriation has been made in the budget. Purchase orders will be issued after completion of the competitive procurement process and award of the contract by the Board of Education, when applicable. Bid proposals, specifications and/or contracts must be attached to the purchase orders.

Purchase orders must reflect all information relevant to the purchase including the address for delivery. All goods delivered and received must be accepted by an authorized School District employee who will certify that the goods were received in good condition before payment is approved.

The Business Manager shall approve all purchase orders in excess of \$10,000. **XV.**

Ethics of Purchasing

Code of Ethics for School Purchasing Officials:

- to consider first the interests of the local government and the betterment of its government;
- to endeavor to obtain the greatest value for every dollar expended;
- to be receptive to advice and suggestions from department heads, insofar as such advice and suggestions are not in conflict with legal or moral restrictions in purchasing procedures;
- to strive for knowledge of equipment and supplies in order to recommend items that may either reduce cost or increase efficiency;

- to insist on and expect honesty in sales representation whether offered verbally or in writing, through the advertising or in a sample of a product submitted;
- to give all responsible bidders equal consideration and the assurance of unbiased judgment in determining whether their product meets specifications;
- to discourage the offer of, and to decline, gifts which in any way might influence the purchase of municipal equipment and supplies;
- to accord a prompt and courteous reception, insofar as conditions permit, to all who call on legitimate business missions;
- to counsel and assist other purchasing agents in the performance of their duties wherever occasion permits; and
- to cooperate with government and trade associations in the promotion and development of sound business methods in the purchasing of equipment and supplies.

Ref: General Municipal Law §§102; 103; 104-b; 109-a; 800 et seq.

State Finance Law § 163

8 NYCRR §§114.3; 114.4; 170.2

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