

# MERRICK UNION SCHOOL DISTRICT

## PURCHASING

## Policy 6500

The function of purchasing is to serve the educational program by providing the necessary supplies, equipment and related services. It shall be the goal of the Board of Education to focus on the educational welfare of the students, in conjunction with seeking maximum value for each dollar expended. In pursuit of this goal, the Board of Education shall purchase competitively, without prejudice, all goods and services necessary to support the educational and auxiliary departments of the School District.

The Board of Education designates Jennifer Buscemi as the Purchasing Agent for the School District. The Purchasing Agent, under the general supervision of the Assistant Superintendent for Business, will be responsible for administering all purchasing activities and ensuring the quality and quantity of purchases made by the School District. All purchases shall be made through the purchase order process administered by the Purchasing Agent or his/her designee.

The Purchasing Agent is authorized to issue purchase orders without prior approval of the Board of Education when formal bidding procedures are not required by law and budget appropriations are adequate to cover such obligations.

The Purchasing Agent, in conjunction with the building principal or his/her designee or department head, shall be responsible for preparing all bid specifications and a statement of general bidding conditions to be included in every notice or invitation to bid. No contracts for goods or services made by individuals or organizations in the School District without the approval of the Board of Education shall be enforceable.

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. In determining the necessity for competitive bidding, the aggregate (total combined District-wide) cost of a commodity estimated to be purchased in a fiscal year must be considered. 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.

The Purchasing Agent is authorized to conduct bid openings. In the event the Purchasing Agent is not available, the Superintendent of Schools or his/her designee shall conduct the bid opening. All contracts which require public advertising and competitive bidding shall be awarded by resolution of the Board of Education. Written recommendations for the award of all such contracts shall be submitted to the Assistant Superintendent for Business. When purchases or annual anticipated purchases for items or categories of items reach statute-specified amounts, bid specifications shall be developed and bids taken as required by statute. Purchases shall not be manipulated to avoid taking bids as required by statute.

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, to facilitate the acquisition of goods

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and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption and shall be made in accordance with the Board of Education's purchasing regulation.

The Board of Education shall award bids or approve contracts with third parties. When it is in the best interests of the School District, contracts for purchases of materials, supplies or equipment (except printed material), 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.

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 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.

Contracts and agreements for capital projects and professional services not governed by sections 103 and 104 of General Municipal Law, between the School District and contractors shall be approved by resolution of the Board of Education and shall be signed by the Board of Education President and/or the Superintendent of Schools, Deputy Superintendent or Assistant Superintendent for Business, on behalf of the Board of Education.

No Board of Education member, officer or employee of the School District shall have an interest in any contract entered into by the Board of Education or the School District, as provided in Article 18 of the General Municipal Law.

All School District policies regarding the procurement processes will be reviewed by the Board of Education at least annually. Comments regarding the purchasing process shall be solicited from appropriate School District personnel involved in the procurement process as is deemed necessary. New regulations and procedures must then be adopted by Board of Education resolution.

The unintentional failure to fully comply with the provisions of section 104-b of the General Municipal Law or the School District's policies regarding procurement will not be grounds to void action taken nor give rise to a cause of action against the School District or any officer or employee of the School District.

The Board of Education recognizes its responsibility to develop 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:

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- 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, improvidence, 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 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 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 approved by the Board of Education.
- "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***

The Purchasing Agent or designee 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. 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.

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#### *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, Requests for Proposals (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 therefor.

#### *E. Purchases involving the expenditure of federal funds, federal grants and/or federal awards*

For all purchase contracts involving the expenditure of federal funds, federal grants and/or federal awards, the School District shall comply with the Uniform Guidance procurement rules issued by the United States Office of Management and Budget.

#### **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 prudent and economical manner 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 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. 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 must be documented by the ordering department and maintained by the Purchasing Agent;

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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. Written quotations must be documented by the ordering department and maintained 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, or are unresponsive to a request for a quote, are to be counted toward compliance with this requirement. 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 (RFP): The School District will prepare an 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 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*

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:

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1. ***District-Wide Purchase Contracts below \$20,000*** (including service contracts for work not covered by Article 8 of the Labor Law)

ANNUAL DOLLAR LIMIT	PROCEDURE
\$500 - \$1,000	Documented telephone quotations from at least three (3) separate vendors (if available).
\$1,001 - \$9,999	Formal written quotations from at least three (3) separate vendors (if available).
\$10,000 - \$19,999	Formal written quotations from at least five (5) separate vendors (if available).
\$20,000 and up	Sealed bids in conformance with General Municipal Law, Section 103 for award by the Board of Education

If the required number of quotes cannot be obtained, proper documentation acceptable to the Business Office must be provided.

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

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

ANNUAL DOLLAR LIMIT	PROCEDURE
\$500 - \$19,999	Documented verbal quotations from at least three (3) separate vendors (if available).
\$20,000 - \$34,999	Formal written quotations from at least three (3) separate vendors (if available) in conformance with General Municipal Law Section 103.
\$35,000 and higher	Sealed bids conformance with General Municipal Law, Section 103 for award by the Board of Education.

If the required number of quotes cannot be obtained, proper documentation acceptable to the Business Office must be provided.

Payment to vendors will not be processed without certified payroll.

**Any public works contract over \$35,000 requires a formally advertised bid in accordance with General Municipal Law.**

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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 Superintendent of Schools or his/her designee must be notified that an emergency situation exists. Approval to make necessary purchases must be obtained from the Superintendent of Schools or his/her designee. He/she will 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.



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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; that no other item or service provides substantially equivalent or similar benefits; and there is no possibility of competition for the procurement of the good or service. 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 the County contract for which the School District is eligible for participation.

Documentation: The School District will maintain written documentation from the 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 will 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: The School District will maintain the contract number and name of governmental agency. The School District will maintain legal authorization and Board of Education authorization for the procurement.

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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.

Documentation: The School District will maintain the contact number and name of governmental agency.

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: The School District will maintain contract 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; and investment management. The Board of Education may solicit requests for proposals if it is in the best interest of the School District.

Documentation: The School District will maintain quotes, 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: The School District will maintain 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: 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: The School District will maintain the name of the agency and the cost associated with the procurement.

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

Documentation: The School District will maintain all contracts and related data.

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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 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 Assistant Superintendent for Business to establish and maintain an internal control structure so that, to the best of his/her 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.

All School District regulations regarding the procurement processes will be reviewed by the Board of Education at least annually.

### ***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.

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### *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 delivered to a building in the School District and accepted by an authorized School District employee who will certify that the goods were received in good condition before payment is approved.

Ref: Education Law §§305(14); 409-i; 1604(29-a); 1709(4-a)(9)(14)(22);  
General Municipal Law §§102; 103; 104-b; 109-a; 800 et seq.;  
State Finance Law § 163  
State Finance Law 163-b  
8 NYCRR §§114.3; 114.4; 170.2

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