



Book	Draft Policies from NYSSBA
Section	Policy Update - November 2023 - Second Installment
Title	PURCHASING REGULATION
Code	6700-R
Status	First Reading
Last Reviewed	February 11, 2025

NEW NOTE: Changes are suggested to IV.3. and IV.4. for NYS food and milk purchases, and new item VII.A. is added for U.S. salt preferential purchasing.

NOTE: This policy and regulation should be shared with, and carefully reviewed by, Superintendents, School Business Officials, Purchasing Agent, and all personnel involved in district purchasing.

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

I. Definitions

Best value: optimizing quality, cost and efficiency. The basis for best value shall reflect, whenever possible, objective and quantifiable analysis, and may also take into consideration small businesses or certified minority- or women-owned businesses as defined in State Finance Law §163.

Purchase Contract: a contract involving the acquisition of commodities, materials, supplies, services or equipment.

Public Work Contract: a contract involving labor or both materials and labor for a project such as construction.

Reasonably Competitive: the cost of a recycled product does not exceed (a) 10% above that of a comparable non-recycled product, or (b) 15% above that of a comparable non-recycled product, if at least 50% of the secondary materials used to make the product comes from New York State waste.

Recycled Product: any product manufactured from secondary materials (recovered from or otherwise destined for the waste stream), as defined in Economic Development Law §261(1), and which meets the requirements of Environmental Conservation Law §27-0717(2) and associated regulations 6 NYCRR §368.4.

II. General Municipal Law

The General Municipal Law requires that purchase contracts for services, 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.

NOTE: Item 4 below reflects the district's responsibilities under the Iran Divestment Act of 2012 when advertising bids.

4. All advertised bids must include the following statement required by General Municipal Law 103-g: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law."

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

NOTE: The paragraph below reflects the district's option to award bids on the basis of best value.

The Purchasing Agent will be authorized to open and record bids. Contracts will be awarded to the lowest responsible bidder or a purchase contract bid of best value (as recommended by the Purchasing Agent), who has furnished the required security after responding to an advertisement for sealed bids.

NOTE: The paragraph below reflects the district's responsibilities under the Iran Divestment Act of 2012 when selecting bidders.

In order to be considered a responsible bidder, entities must certify that they are not on the list created and maintained by the State Office of General Services cataloging significant investment in the Iranian energy sector. Such statement may be submitted electronically pursuant to General Municipal Law §103(1). Entities that cannot make this certification may only be awarded the bid if:

1. The entity's investment activities in Iran were made before April 12, 2012; the investment activities in Iran have not been expanded or renewed after that date; and the entity has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or
2. The district makes a determination, in writing, that the goods or services are necessary for the district to perform its functions and that, absent such an exemption, the district would be unable to obtain the goods or services for which the contract is offered.

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.

E. 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.

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

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 which 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;

NEW NOTE: Items 3 and 4 below reflects changes to General Municipal Law §103(9) and (10) and Commissioner's regulations §114.3 and 114.4 regarding certain food and milk purchases.

3. when the Board separately purchases eggs, livestock, fish and dairy products (other than milk), juice, grains and species of fresh fruits and vegetables ~~directly from New York State producers or growers or associations of producers and growers~~ grown, produced or harvested in New York State, each order not to exceed \$150,000 unless granted permission by the Commissioner of Education, subject to the requirements of General Municipal Law §103(9) and Commissioner's Regulations §114.3.

Documentation: The district will maintain documentation consistent with section 114.3 of the Regulations of the Commissioner of Education;

4. when the Board separately purchases milk produced in New York State 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.

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.

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 keep proper documentation in accordance with policy 6741; or

NOTE: The text below addresses "piggybacking" where competitive bidding requirements would otherwise apply. There are no documentation requirements specific to piggybacking; however, the Office of the State Comptroller (OSC) recommends that districts maintain at least some documentation about why piggybacking is in the best interests of the district, copies of the original contract, and that the originating contract was let in a manner consistent with state competitive bidding requirements. The OSC also recommends that districts consult their attorneys to review the contract and make sure there are no provisions that conflict with other New York State laws or regulations.

8. when the district purchases through the contracts of (or "piggybacks" onto) other governmental entities, as authorized by law, for certain goods and services permitted by law. Factors relevant to the decision to "piggyback" may include cost, staff time, delivery arrangements, quality of goods and services, and suitability of such goods and services to the district's needs.

Documentation: The district will keep documentation indicating why "piggybacking" is in the best interests of the district, copies of the original contract, and that the originating contract was let in a manner consistent with applicable competitive bidding requirements.

V. Quotes When Competitive Bidding Not Required

Goods and services which are not required by law to be procured by the district through competitive bidding will be procured in a manner 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, 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, name of contact. For example, with regard to insurance, the district will maintain documentation that will include bid advertisements, specifications and the awarding resolution. Alternatively, written or verbal quotation forms will serve as documentation if formal bidding is not required.
3. Requests for Proposals: the district will utilize RFP's to engage professional services providers in accordance with policy 6741.

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
 - a. Contracts from \$100 to \$1,000: Verbal quotes

- Documentation will include notations of verbal quotes.
- b. Contracts in excess of \$1,000 to \$20,000: Written quotes
- 2. Public Work Contracts up to \$35,000
 - a. Contracts from \$1,000 to \$10,000: Verbal quotes
 - Documentation will include notations of verbal quotes.
 - b. Contracts in excess of \$10,000 to \$35,000: Written quotes

VI. Quotes Not Required When Competitive Bidding Not Required

NOTE: Items 3 and 4 below address piggybacking where competitive bidding is not required and alternative quotes will not be secured.

The district will not be required to secure alternative proposals or quotations for those procurements as permitted by state law:

- 1. under a county contract;
- 2. under a state contract;
- 3. under a federal contract;
- 4. under a contract of another political subdivision;
- 5. of articles manufactured in state correctional institutions; or
- 6. from agencies for the blind and severely disabled.

NOTE: The following text emphasizes that even when competitive bidding is not required, contracts must be awarded in the best interests of the taxpayers.

"Piggybacking" onto the contract of other governmental agencies is permitted where the original contract is in conformance with the goals of the district's policy and regulation for purchasing when competitive bidding is not required.

VII. Procurements from Other than the "Lowest Responsible Dollar Offeror"

The district will provide justification and documentation of any contract awarded to an offeror other than the lowest responsible dollar offeror, setting forth the reasons why such award is in the best interests of the district and otherwise furthers the purposes of section 104-b of the General Municipal Law.

VIII. Preferential and Environmentally Conscious Purchasing

NOTE: This section addresses purchasing instructional materials in alternative formats, green cleaners, green purchasing, and recycled products.

A. Instructional Materials in Alternative Formats

In accordance with Education Law, the district gives 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, other than 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 instructional materials in an alternative format will receive those materials at the same time that they are available to non-disabled students.

B. Environmentally-Sensitive Cleaning and Maintenance Products

In accordance with Education Law §409-i, 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.

C. GreenNY Purchasing

The district has opted to include the GreenNY procurement specifications in its purchasing, whenever feasible. The Purchasing Agent will determine whether a GreenNY specification exists for any potential purchase, including purchases subject to competitive bidding and those that are

not, and whether to include the specification. Relevant factors include whether the cost is reasonably competitive, whether the product or service will meet the district's needs, and if there is a health or safety reason to not purchase with the specification.

D. Recycled Products

The district has opted to give a preference to vendors of recycled products whenever the price is reasonably competitive, as these terms are defined in state law and reflected in this regulation.

The Purchasing Agent is directed to seek out recycled materials whenever possible, and to include this information in its advertisements.

E. American Salt Preference

NEW NOTE: The following paragraph reflects the provisions of General Municipal Law §104-d.

The district may award contracts for rock salt or sodium chloride (whether or not subject to competitive bidding) to a responsible and reliable supplier of rock salt or sodium chloride that is mined or hand harvested in the United States, as long as the offer is within ten percent of the lowest price or best value offer.

IX. 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.

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

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.

Adoption date: