



Book Ogdensburg City School District

Section Policy Update - November 2023 - Second Installment

Title PURCHASING

Code 6700

Status First Reading

Last Reviewed February 11, 2025

(X) Required

(X) Local

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NEW NOTE: We have added item E to the "Special Circumstances" section outlining the district's ability to give a preference for rock salt mined or harvested in the U.S., pursuant to Chapter 72 of the Laws of 2023. Changes to the accompanying regulation are necessary to reflect this, as well as Chapter 58 Part OO of the Laws of 2023 regarding the purchase of certain New York State food and milk products.

OLD NOTE: A policy on purchasing that is not subject to competitive bidding is required by General Municipal Law § 104-b.

This policy addresses elements such as: competitive bidding requirements, exceptions to competitive bidding, purchasing under the competitive bidding threshold, "piggybacking" onto other governmental contracts, awarding contracts on the basis of best value instead of lowest bid, green cleaners, purchasing recycled materials, Green Purchasing specifications, instructional materials in alternative formats, and E-Rate discounts.

The Board of Education views purchasing as serving the educational program by providing necessary supplies, equipment and related services. Purchasing will be centralized in the business office under the general supervision of the Purchasing Agent designated by the Board.

It is the goal of the Board to purchase competitively, without prejudice or favoritism, and to seek the maximum educational value for every dollar expended. Competitive bids or quotations will be solicited in connection with purchases pursuant to 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. Purchases of the same commodity cannot be artificially divided for the purpose of avoiding the threshold. 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 district's purchasing activity will strive to meet the following objectives:

NOTE: Optional item 6 below is provided for the district to participate in the GreenNY Green Purchasing Community.

1. to effectively supply all administrative units in the school system with needed materials, supplies, and contracted services;
2. to obtain materials, supplies and contracted services at the lowest prices possible consistent with the quality and standards needed as determined by the Purchasing Agent in conformance with state law and regulation and in cooperation with the requisitioning authority. The educational and physical welfare of the students is the foremost consideration in making any purchase;
3. to ensure that all purchases fall within the framework of budgetary limitations and that they are consistent with the educational goals and programs of the district;

4. to maintain an appropriate and comprehensive accounting and reporting system to record and document all purchasing transactions;
5. to ensure, through the use of proper internal controls, that loss and/or diversion of district property is prevented;

Opportunities will be provided to all responsible suppliers to do business with the school district. Suppliers whose place of business is situated within the district may be given preferential consideration only when bids or quotations on an item or service are identical as to price, quality and other factors.

NOTE: The following sections are grouped under the heading of "Special Circumstances": piggybacking, instructional materials in alternative formats, environmentally preferable (green cleaning products, green purchasing, and recycled materials), and e-rate and other federal discounts.

Special Circumstances

A. "Piggybacking"

NOTE: The paragraph below provides the Board with a blanket allowance to "piggyback" onto contracts let by other federal, state and local political subdivisions, where permitted by law.

Where permitted by law, purchases may be made through available cooperative BOCES bids, or by "piggybacking" onto contracts of the United States or agencies thereof or the federal General Services Administration (GSA), the New York State Office of General Services (OGS), departments or agencies of New York State, any New York State county, or any state or any county or political subdivision or district therein, whenever such purchases are in the best interests of the district or will result in cost savings to the district. In addition, the district will make purchases from correctional institutions and severely disabled persons through charitable or non-profit-making agencies, as provided by law.

NOTE: The text below clarifies the district's responsibility to review any contracts for which they are "piggybacking," to ensure the original contract was let in a manner consistent with the requirements of state law. This review may require your school attorney's involvement.

It is the district's responsibility to review each "piggybacking" contract corresponding to a proposed purchase, upon the advice of counsel as necessary, to determine whether the original contract does not conflict with state law or regulation, and meets the following requirements:

1. The contract must have been let by the United States, or any agency thereof, any state, or any other political subdivision or district therein;
2. The contract must have been made available for use by other governmental entities; including New York State local governments;
3. The contract must have been let to the lowest responsible bidder or on the basis of best value, in a manner consistent with General Municipal Law §103. Those main elements are: (a) public solicitation of bids or offers; (b) secure or confidential bids or offers; (c) use of a common standard for bidders or offers to compete fairly; and (d) awarded to the lowest responsible bidder, or responsible offeror of best value, which optimizes quality, cost and efficiency.

B. Instructional Materials in Alternative Formats

In accordance with law, the district will give a preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats. The term "alternative format" means 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 (or program of a BOCES), including but not limited to Braille, large print, open and closed captioned, audio, or an electronic file in a format compatible with alternative format conversion software that is appropriate to meet the needs of the individual student.

C. Environmentally ~~Preferable~~ Conscious Purchasing

1. Environmentally Sensitive ("Green") Cleaning Products

The Board is aware of the need to reduce exposure of students and staff to potentially harmful chemicals and substances used in cleaning and maintenance. In accordance with law, regulation and guidelines set forth by the Office of General Services (OGS), the district will purchase and utilize environmentally sensitive cleaning and maintenance products in its facilities whenever feasible. Cleansers purchased

must, first and foremost, be effective so that the district may continue to purchase non-green products as necessary. Environmentally sensitive cleaning and maintenance products will be procured in accordance with standard purchasing procedures as outlined in this policy and regulation.

2. Recycled Products

NOTE: Municipalities have had the option under General Municipal Law §104-a of giving a preference to purchasing recycled products even if the cost is not the lowest, as long as the price is "reasonably competitive". General Municipal Law §104-a defines this as not over 10% more than a comparable non-recycled product, or not over 15% more if at least 50% of the secondary materials are from the NYS waste stream.

The district gives a preference to vendors of recycled products whenever they meet the district's specifications and the price is reasonably competitive, defined in General Municipal Law §104-a.

D. E-Rate and other Federal Discounts

In order to ensure that the district avails itself of advantageous purchasing opportunities, the Board authorizes the Purchasing Agent to represent the district in applying for federal programs designed to discount prices for goods and services. Specifically, the Purchasing Agent will abide by the rules and regulations associated with applying for telecommunications service discounts through the Universal Service Fund (E-Rate), in addition to complying with the local purchasing policies set forth by the Board. As with all purchasing activity, appropriate documentation of the application and purchase through any federal program will be maintained by the business office.

E. American Salt Preference

NEW NOTE: The district could state that it will give a preference to suppliers of American Salt, instead of it being an option. More details reflecting the provisions of General Municipal Law §104-d are in the accompanying regulation.

The district may give a preference to suppliers of American rock salt or sodium chloride, pursuant to the requirements of General Municipal Law §104-d.

Competitive Bidding

NOTE: The following paragraph reflects the allowance to award purchase contracts on the basis of "best value," which is optional; since it offers the Board more flexibility, NYSSBA recommends its inclusion.

Purchase contracts and public works contracts subject to competitive bidding will be awarded to the lowest responsible bidder; however, the Board authorizes that purchase contracts may be awarded on the basis of best value, as defined in State Finance Law §163. Other exceptions to competitive bidding are outlined below.

NOTE: The paragraph below allows the Board to authorize the receipt of sealed bids in an electronic format, as allowed by General Municipal Law §103(1). The Board is not required to accept electronic bids. NYSSBA recommends discussing the option with the administrative team. If it is determined that allowing electronic bidding is desirable, insert the following paragraph.

In addition, the Board authorizes the receipt of sealed bids for purchase contracts in electronic format, pursuant to the provisions of General Municipal Law §103(1) which addresses proper documentation, authentication, security, and confidentiality of electronic bids.

NOTE: The following paragraph is included to comply with section 103-g of the General Municipal Law, which was enacted to implement the federal Iran Divestment Act of 2010 (Public Law 111-195).

The district will comply with the requirements of General Municipal Law §103-g, which prohibits, with few exceptions, competitive bidding contracts with entities that invest significantly in the Iranian energy sector, as outlined in the accompanying regulation.

Exceptions to Competitive Bidding

NOTE: The text in item 5 clarifies the district's responsibilities for "piggybacking" for certain items otherwise subject to competitive bidding.

Competitive bidding, even if the dollar value of the purchase meets the threshold established above, is not required in the following circumstances:

1. emergencies where time is a crucial factor;
2. procurements for which there is no possibility of competition (sole source items);
3. professional services that require special skill or training (see policy 6741 for guidance on purchasing professional services);
4. purchases such as surplus or second-hand items from governmental entities, certain food and milk items, or goods and services from municipal hospitals; or
5. where the district is purchasing through (or is "piggybacking" onto) the contract of another governmental entity, where the original contract complies with the requirements of New York State law for competitive bidding.

Purchasing 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, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption.

NOTE: Items 3 and 4 address the ability of the district to "piggyback" onto contracts that are not subject to competitive bidding requirements (i.e., under the threshold dollar amounts).

Alternative proposals or quotations will be secured by requests for proposals, written or verbal quotations or any other appropriate method of procurement, except as permitted by state law for procurements:

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 this section.

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.

General Purchasing Provisions

The Superintendent of Schools, with the assistance of the Purchasing Agent, is responsible for the establishment and implementation of the procedures and standard forms for use in all purchasing and related activities in the district. Such procedures must comply with all applicable laws and regulations of the state and the Commissioner of Education.

No Board member, officer or employee of the school district will have an interest in any contract entered into by the Board or the district, as provided in Article 18 of the General Municipal Law.

Comments will be solicited from those administrators involved in the procurement process before enactment of the district's policies regarding purchasing and from time to time thereafter. The policies must then be adopted by Board resolution. All district policies 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 policies regarding procurement will not be grounds to void action taken nor give rise to a cause of action against the district or any officer or employee of the district.

Cross-ref:

6710, Purchasing Authority
6741, Contracting for Professional Services

NEW NOTE: We have added the citation to General Municipal Law §104-d.

Ref:

Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195)
Education Law §§305(14); 409-i; 1604(29-a); 1709(4-a), (9), (14), (22); 2503(7-a); 2554(7-a)
General Municipal Law §§102; 103; 103-g; 104; 104-a; 104-b; 104-d; 109-a; 800 et seq.
State Finance Law §§97-g(3), (4), (5); 163; 163-b; 165-a
County Law §408-a(2)
8 NYCRR Part 114

Adoption date: