

SUBJECT: PURCHASING POLICY**Purchasing Authority**

The District's purchasing activities will be part of the responsibilities of the Purchase Department, under the general supervision of the Director of Purchase designated by the Board of Education. The Director of Purchase is authorized to enter into cooperative bidding and cooperative purchasing arrangements to meet the various needs of the District. No purchase of goods or services will be made by individuals or organizations in the District, including individual schools, that involve expenditures of District funds or pass through funds without first securing approval from the Director of Purchase.

A Requisition is a formal request from a District department to the Director of Purchase to initiate the procurement process for the purchase of goods or services. It is a request, not a guarantee that a purchase will be made.

A determination of need, as evidenced by inclusion in the District Budget or by Board appropriation, shall precede creation of the requisition.

A Purchase Order is the document that authorizes a vendor to deliver described goods and services at a specified price. Purchase orders are approved and issued by the Director of Purchase.

All purchases requiring public advertising and competitive bidding or offering, or purchases that aggregate to an amount in excess of the dollar thresholds requiring public advertising and competitive bidding or offering, will be awarded by resolution of the Board. In accordance with Board policy, advertising and outreach shall include minority and women owned enterprises.

Except as authorized by law, no Board member or employee of the District will have an interest in any contract entered into by the District. Those involved in the selection, evaluation, approval, or post-award administration of offerer proposals will certify that they have no real or apparent conflicts of interest in accordance with Board Policy #6110.

Competitive Bidding and Offering and Purchase of Goods and Services

Except as otherwise provided by law, all contracts for public work (encompassing labor and construction services) involving an expenditure of more than \$35,000 and all purchase contracts (for commodities such as equipment, materials, supplies) involving an expenditure of more than \$20,000 will be awarded by the District to the lowest responsible bidder furnishing the required security after advertisement for sealed bids.

As such, contracts for commodities shall be awarded on the basis of lowest price to a responsible and responsive offerer upon approval of the Board of Education.

SUBJECT: PURCHASING POLICY (Continued)

Responsive shall mean the offer meets the minimum specifications or requirements as prescribed by the solicitation.

Responsible shall mean financial ability, legal capacity, integrity and past performance of the offerer. Offerers who violate the policy on restrictions on contact during the procurement process may be disqualified as lacking integrity.

However, purchase contracts which include service work, technology, or contracts for services (excluding purchase contracts necessary for the completion of a public works contract or pursuant to Article 8 of labor law) may be awarded on the basis of “best value” to a responsive and responsible bidder or offerer.

Best value awards require written justification and documentation showing that quality, cost, and efficiency is optimized amongst the responsive and responsible offerers.

Selection and award of an offer shall be in a manner consistent with the provisions set forth in the solicitation. In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient.

It is required that the bids or offers conform to the specifications in the solicitation or else they may be deemed non-responsive. The District may, in its discretion, reject all bids or offers and re-advertise for new bids or offers in a manner consistent with New York State law.

Procurement of Specific Make, Model or Brand (Standardization)

Upon the adoption of a standardization resolution by a vote of at least 6/9 of all Board members, purchase contracts for a particular brand, make, model, type or kind of equipment, materials, supplies or services of more than \$20,000 may be awarded by the Board to the lowest responsible bidder or offerer (or best value, where applicable) furnishing the required security after advertisement for sealed bids in the manner provided in law. This resolution must state that, for reasons of efficiency or economy, there is a need for standardization and must contain a full explanation of those reasons. Upon the adoption of a valid standardization resolution, the District may provide in its specifications for a particular make or brand to the exclusion of others.

Where the procurement is not limited to a particular brand, make or model, the solicitation may make reference to a particular brand, make, or model as a reference to describe specification requirements of function, style or capacity and will also seek the product’s “equivalent” or a product with “equal characteristics.”

SUBJECT: PURCHASING POLICY (Continued)**Electronic Procurement**

Electronic receipt of bids or offers shall be permitted when included in a solicitation, and when in compliance with article three of the state technology law, and any rules and regulations promulgated and guidelines developed thereunder and, at a minimum, must (a) document the time and date of receipt of each bid and offer received electronically; (b) authenticate the identity of the sender; (c) ensure the security of the information transmitted; and (d) ensure the confidentiality of the bid or offer until the time and date established for the opening of bids or offers. The timely submission of an electronic bid or offer in compliance with instructions provided for such submission in the advertisement for bids or offers and/or the specifications shall be the responsibility solely of each bidder or offerer or prospective bidder or offerer.

Restrictions on Contact

From the time of earliest posting or advertisement of an invitation for bids, request for proposal or other solicitation, until the subject contract is awarded by approval of the Board of Education, offerers or any one on behalf of the offering entity are restricted from contacting the District, the Board of Education, its agents or employees with the intent to influence the District's conduct or decisions regarding the subject procurement. Only permissible contacts are permitted as outlined by NY State Finance Law 139-J and 139-K or as prescribed by the solicitation.

The District regulations shall address reporting of inappropriate contacts during the restricted period of procurements and the steps to address same.

A bidder or offerer who has been determined to violate this policy may be disqualified from the contract award.

Purchasing Process

The Board of Education recognizes its responsibility to assure that the procurement of goods and services not required to be made pursuant to competitive bidding requirements, are still procured in a manner so as to:

- a) Assure the prudent and economical use of public monies in the best interests of the taxpayer and to obtain the maximum value possible out of every dollar spent, and apply those dollars strictly to needs;

SUBJECT: PURCHASING POLICY (Continued)

- b) Facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances; and
- c) Guard against favoritism, improvidence, extravagance, fraud, and corruption.

As such, the District's administrative regulations shall set forth procedures for the procurement of goods and services not required to be competitively bid, and shall provide the procedures regarding the type of procurement method to be utilized depending on the type of purchase being made. Additionally, the regulations shall set forth the required documentation necessary for each procurement.

Any unintentional failure to fully comply with the provisions of this policy will not be grounds to void action taken or give rise to a cause of action against the District or any District employee.

Procurement methods include:

1. **Invitation for Bids:** Method of procurement to be utilized when the award shall be based on lowest price only (for example, Commodities).
2. **Requests for Proposal:** Method of procurement to be utilized where price is not the sole determinative factor (for example, Services).
3. **"Piggybacking" Contract/Purchase:** The District may, in its discretion, purchase certain goods and services (apparatus, materials, equipment, and supplies) at costs beyond the above-referenced thresholds through the use of contracts let by the United States or any agency thereof, any state, and any county, political subdivision, or district of any state.
4. **OGS contracts, including Mini-bids authorized under OGS contracts:** purchases made through the New York State Office of General Services (OGS) centralized contracts.
5. **Electronic Reverse Auctions as authorized under the NYS OGS**
6. **Discretionary Purchases:** purchases made under the statutory threshold. Discretionary purchases shall be made pursuant to District regulations.
7. **Preferred sources:** purchases made from preferred sources as outlined by NY State Finance Law §162.

SUBJECT: PURCHASING POLICY (Continued)

8. **Professional Services Contracts:** Professional services are generally those services that require specialized skills, training, professional judgment, expertise, and creativity. Examples include attorneys, architects, and engineers. Although, the procurement of professional services falls within an exception to competitive bidding, whenever possible, the District will require the use of requests for proposals (RFP).
9. **Sole Source:** procurement in only which one entity has the required commodities or services to offer.
10. **Single Source Contract Awards:** although two or more offerers exist, only one offerer is capable of supplying the required commodities or services in the best interests to the District and for reasonable costs, as justified in writing setting forth the material and substantial reasons as to why.
11. **Emergency Contract/Purchase:** The Superintendent may authorize purchases within the approved budget without bidding if required by an emergency or otherwise permitted by law. Emergencies are defined as an urgent and unexpected requirement where health and public safety or the conservation of public resources are at risk.
12. Any other procurement method authorized by law.

Negotiation

The District may enter into post bid/offer negotiations with the lowest responsible bidder or best value offerer, who would otherwise be entitled to a contract award, so long as there are no material specifications altered or any other compromises made to the bidder or any fraud, favoritism or corruption, in order to gain a reduction in cost. Failed negotiations may result in an alternate award.

Bid Protest

Any persons who perceive themselves to be injured or aggrieved by the result of an award must submit a timely bid protest pursuant to the terms set forth in the regulations.

Periodic Reporting and Annual Review

Periodic reporting to the Board will be developed detailing contracts awarded that are below the formal bidding thresholds of this policy. Periodic reporting to the Board will be developed outlining MWBE progress in alignment with policy 5414 - Minority and/or Women Owned Business Enterprise Policy.

POLICY

2019

5410

6 of 6

Non-Instructional/Business
Operations

SUBJECT: PURCHASING POLICY (Continued)

Comments concerning the District's bidding and purchasing policies and procedures will be solicited from those District employees involved in the procurement process from time to time.

The Board will annually review its bidding and purchasing policies and procedures. The Chief Financial Officer will be responsible for conducting an annual review of such policies and for an evaluation of the internal control structure established to ensure compliance with the procurement policy.

8 New York Code of Rules and Regulations, Section 170.2
General Municipal Law Articles 5-A and 18
State Finance Law §§ 139-j 139-k, 162, 163, and 163-b
Education Law §§ 1604, 1709, 1950, 2503, 2554, and 3602
General Municipal Law §§ 104-b and 119-o

NOTE: Refer also to Policies

#5412 -- Alternative Formats for Instructional Materials
#5413 -- Procurement: Uniform Grant Guidance for Federal Awards
#5414 -- Minority and/or Women Owned Business Enterprise Policy

Adoption Date: March 20, 2019