

Board of Education Policy

PURCHASING

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 shall be solicited in connection with purchases pursuant to law. The General Municipal Law requires that purchasing 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 purposes 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.

In accordance with law, the District shall give a preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats. The term "alternative format" shall mean 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.

The Board is also aware of the need to reduce exposure of students and staff to potentially harmful chemicals and substances used in cleansing 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 products will be procured in accordance with standard purchasing procedures as outlined in this policy and regulation.

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.

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

1. under a county contract;
2. under a state contract;

Board of Education Policy

PURCHASING

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

Purchase contracts and public works contracts subject to competitive bidding will be awarded to the lowest responsive, 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.

The District's purchasing activity will strive to meet the following objectives:

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; and
5. to ensure, through the use of proper internal controls, that loss and/or diversion of District property is prevented.

Opportunities shall 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. Where permitted by law, purchases may be made through available cooperative bids, 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

Board of Education Policy

PURCHASING

addition, the District may make purchases from correctional institutions and disabled persons through charitable or non-profit-making agencies, as provided by law.

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.

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.

The Purchasing Agent will not be required to secure alternative proposals or quotations for:

1. emergencies where time is a crucial factor;
2. procurements for which there is no possibility of competition (sole source items);
3. very small procurements when solicitations of competition would not be cost-effective;
4. professional services that require special skills or training;
5. purchases, such as surplus or second-hand items from governmental entities, certain food and milk items or goods and services from municipal hospitals;
6. where the District is purchasing through (or "piggybacking" onto) the contract of another governmental entity when the original contract complies with the requirements of New York State law for competitive bidding; and
7. where otherwise authorized by law.

Board of Education Policy

PURCHASING

The Superintendent of Schools, with the assistance of the Purchasing Agent, Carrie Sandt, shall be 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 shall comply with all applicable laws and regulations of the state and the Commissioner of Education.

The District shall 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.

No Board member, officer, or employee of the school District shall 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.

The Board authorizes the Superintendent, with the assistance of the Business Office, 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.

Uniform Guidance Compliance for Federal Awards – Procurement, Suspension and Debarment

2 CFR Part 200, Subparts A-F (*Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards*) (hereinafter "Uniform Guidance") requires organizations receiving Federal awards to establish and maintain effective internal controls when procuring goods and services needed to carry out such Federal awards.

General Policy Statement

The requirements for procurements using Federal awards are contained in the Uniform Guidance, program legislation, Federal awarding agency regulations, and the terms and conditions of the award.

Board of Education Policy

PURCHASING

To comply with Uniform Guidance, the District implements policies and procedures, including, but not limited to:

1. The District will use its own documented procurement procedures which reflect applicable State, local and tribal laws and regulations, provided that the procurements conform to applicable Federal law and Uniform Guidance. As such, the District procurements related to Federal grants will be subject to New York State General Municipal Law, this policy, and Uniform Guidance Requirements.
2. Contract files will document the significant history of the procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis of contract price.
3. The District will utilize one of the five acceptable procurement methodologies detailed in §200.320 which include:
 - a. micro purchases
 - b. small purchase procedures;
 - c. sealed bids;
 - d. competitive proposals; and
 - e. non-competitive proposals (sole source).
4. Procurements will provide for full and open competition as set forth in the Uniform Guidance and State and local procurement thresholds.
5. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents can neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. If the financial interest is not substantial or the gift is an unsolicited item of nominal value, no further action will be taken. Otherwise, however, disciplinary actions may be pursued for violations of this section.
6. The District will avoid acquisition of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical procurement approach. The District will also analyze other means, as described in §200.318 of the Uniform Guidance, to ensure appropriate and economical acquisitions.

Board of Education Policy

PURCHASING

7. The District will enter into State and local intergovernmental agreements or inter-entity agreements, where appropriate.
8. The District will utilize Time and Materials contracts only when it has been determined, in writing, that no other contract type is suitable, and the contract includes a ceiling price that the contractor exceeds at its own risk.
9. Vendors/Contractors that develop or draft specifications, requirements, statements of work, or invitation to bids or requests for proposals must be excluded from competing for such procurements.
10. The District will make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.
11. The District is prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended, debarred or otherwise excluded from or ineligible for participation in federal assistance programs or activities, or whose principals are suspended or debarred. "Covered Transactions" include those procurement contracts for goods and services awarded under a non-procurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed \$25,000. All non-procurement transactions, irrespective of award amount, are considered covered transactions, except for those transactions identified in 2 CFR § 180.215.
12. The District will include a suspension/debarment clause in all written contracts in which the vendor/contractor will certify that it is not suspended or debarred. The contract will also contain language requiring the vendor/contractor to notify the District immediately upon becoming suspended or debarred. This will serve as adequate documentation as long as the contract remains in effect.
13. The District's departments will be required to notify the Purchasing Agent that Federal funding will be used for a certain procurement/contract. When requesting a written contract and prior to the issuance of a purchase order using federal funds, the Purchasing Agent will be responsible for running the name of the vendor/contractor through the System for Award Management (SAM) to determine any exclusions. A copy of the SAM search will be included with the contract request. If a vendor/contractor is found to be suspended or debarred, the District will immediately cease to do business with the vendor/contractor.
14. The District will not use statutorily or administratively imposed State, local or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographical preference.

Board of Education Policy

PURCHASING

15. The District will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor area surplus firms are used when possible. Affirmative steps must include: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) Requiring the prime contractor, if subcontracts are to be let, to take affirmative steps listed (1) through (5).
16. The District will procure recovered materials in compliance with §200.322.
17. The District will perform a cost or price analysis relating to every procurement more than the Simplified Acquisition Threshold as defined in §200.88 and will otherwise comply with §200.323 as necessary.
18. The District will require appropriate bonding requirements as per §200.325.
19. The District will only award contracts to Responsible Vendors/Contractors capable of performing successfully under the terms and conditions of a proposed procurement and will document, in writing, such determination.
20. The District contracts will contain the applicable provisions described in Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.
21. The District will maintain oversight to ensure that contractors perform in accordance with the contract terms, conditions, and specifications, as well as applicable federal requirements and performance expectations under the federal award for each program, function or activity.
22. Copies of executed contracts will be maintained in the Purchasing Department and purchase orders will be maintained in the District's financial management system.
23. The District's financial management system will provide for the following, in accordance with §200.302: (1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received, and, as applicable, the CFDA title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any; (2) accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in § 200.327 (Financial reporting) and § 200.328

Board of Education Policy

PURCHASING

(Monitoring and reporting program performance); (3) Records that identify adequately the source and application of funds for federally-funded activities, which will contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation; (4) Effective control over, and accountability for, all funds, property, and other assets and that the District will adequately safeguard all assets and assure that they are used solely for authorized purposes; (5) Comparison of expenditures with budget amounts for each Federal award; (6) Written procedures to implement the requirements of § 200.305 (Payment); and (7) Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of this part and the terms and conditions of the Federal award.

24. In order to implement the requirements of § 200.305 “Payments”, the District adopts the following written procedures:
- a. The District’s payment method will minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the District whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. The District will require recipients to use only OMB–approved standard governmentwide information collection requests to request payment.
 - b. The District will be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that: (i) minimize the time elapsing between the transfer of funds and disbursement by the District; (ii) financial management systems that meet the standards for fund control and accountability as established in this part, advanced payments will be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the District in carrying out the purpose of the approved program or project; (iii) The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the District for direct program or project costs and the proportionate share of any allowable indirect costs; and (iv) The District must make timely payment to contractors in accordance with the contract provisions.
 - c. Whenever possible, advance payments will be consolidated to cover anticipated cash needs for all Federal awards made by the District to recipients.
 - d. To the extent available, the District will disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

Board of Education Policy

PURCHASING

- e. Pursuant to § 200.305(b)(6), unless otherwise required by Federal statutes, payments for allowable costs by the District will not be withheld at any time during the period of performance unless the conditions of § 200.207, § 200.338, or one or more of the following applies: (i) The District has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award; (ii) The District is delinquent in a debt to the United States as defined in OMB Guidance A-129, “Policies for Federal Credit Programs and Non-Tax Receivables” (under such conditions, the Federal awarding agency or pass-through entity may, upon reasonable notice, inform the District that payments must not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal government is liquidated); (iii) A payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, must be released to the District upon subsequent compliance (when a Federal award is suspended, payment adjustments will be made in accordance with § 200.342);(iv) A payment will not be made to the District for amounts that are withheld by the District from payment to contractors to assure satisfactory completion of work. A payment must be made when the District actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.
- f. Pursuant to §200.305(7), the District will not maintain separate depository accounts for funds provided to the District or establish any eligibility requirements for depositories for funds provided to the District. However, the District will account for the receipt, obligation and expenditure of funds. Advance payments of Federal funds will be deposited and maintained in insured accounts whenever possible.
- g. The District will maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply: (i) The District receives less than \$120,000 in Federal awards per year; (ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances; (iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources; (iv) A foreign government or banking system prohibits or precludes interest bearing accounts.
- h. Interest earned amounts up to \$500 per year may be retained by the District for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment in accordance with § 200.305(b)(9).

Board of Education Policy

PURCHASING

25. In order to implement the requirements of § 200.302(b)(7), the District adopts the following written procedures to determine the allowability of costs in accordance with 2 CFR Part 200, Subpart E Cost Principle:
- a. Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under a Federal award: (i) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles; (ii) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items; (iii) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the District; (iv) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost; (v) Be determined in accordance with generally accepted accounting principles (GAAP); (vi) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period; (vii) Be adequately documented.
 - b. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration must be given to: (i) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the District or the proper and efficient performance of the Federal award; (ii) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award; (iii) Market prices for comparable goods or services for the geographic area; (iv) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the District, its employees, where applicable its students or membership, the public at large, and the Federal government; (v) Whether the District significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.
 - c. A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost: (i) Is incurred specifically for the Federal award; (ii) Benefits both the Federal award and other work of the District and can be distributed in proportions that may be approximated using reasonable methods; and (iii) Is necessary to the overall operation of the District and is assignable in part to the Federal award.

Board of Education Policy

PURCHASING

- 26. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under a Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in § 200.431. Costs of compensation are allowable to the extent that they satisfy the specific requirements of 2 CFR Part 200, including but not limited to § 200.430.

- 27. The District will take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the District considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

Reference: General Municipal Law, Sections 103 (1)(5) and 104-b
Federal Register 2 CFR §200 (Subparts A-F) – General
Procurement Standards

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