

## BIDDING REQUIREMENTS

The District Clerk has the authority to prepare, advertise and open bids for all purchase contracts and contracts for public work, if formal competitive bidding is required by Section 103 of the General Municipal Law.

The School Business Manager, subject to approval of the Superintendent, will be responsible for the development and administration of regulations for the competitive purchasing of goods and services by the school district in compliance with the requirements of the General Municipal Law.

Cross-ref:     6700, Purchasing  
                   6740, Purchasing Procedures  
                   7360, Construction Contracts, Bidding and Awards

Ref: Education Law §§1619; 1725; 1725-a; 2513; 2556  
 General Municipal Law §§100; 103, 103-d; 103-e; 104; 104-b; 105;  
 109-b  
 Correction Law §184  
 State Finance Law §§163; 175-a; 175-b  
 Local Finance Law §§20.00; 135.00  
*Abco Bux v. Macchiarola*, 75 AD2d 831, dissenting opinion, reversed on  
 dissent, 52NY2d 938 (1981)  
*Exley v. Village of Endicott*, 51 NY2d 430 (1981)  
*Gerzof v. Sweeney*, 22 NY2d 297 (1969)  
*Jered v. NYC Transit Authority*, 22 NY2d 187 (1969)  
*Randolph McNutt v. Eckert*, 257 NY 100 (1931)  
*Hauger v. Earl*, 275 AD 437 (3rd Dept., 1949)  
*Hurd v. Erie County*, 34 AD2d 289 (1971)  
*Orange Front Paint v. Scaramuccia*, 59 AD2d 894 (1978)  
*Progressive Dietary v. Wyoming County*, 90 AD2d 214 (1983)  
*Tufaro v. Bd. of Education*, 79 AD2d 376 (1981)  
*Varsity Transit v. NYC Bd. of Ed.*, 130 AD2d 581 (1987)  
*Matter of Jester*, 1 EDR 259 (1959)  
 Executive Order No. 170, Establishing Uniform Guidelines for  
 Determining the Responsibility of Bidders, Executive Chamber, 1993  
 9 Op. St. Compt. 1953, p. 421  
 Op. St. Compt. 81-224  
 Op. St. Compt. 83-22  
 Op. St. Compt. 86-19; 86-25  
 Op. St. Compt. 87-46

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 Revision date: July 12, 2011  
 Adopted: August 9, 2011

## COMPETITIVE BIDDING PROCEDURES REGULATION

The requirements for formal competitive bidding are as follows:

1. All items must be bid when the cost of any single item or group of similar items is in excess of ten thousand dollars (\$10,000).
2. All repair or contract obligations involving the use of personnel and goods in a single project must be bid when such a project's costs exceed twenty thousand dollars (\$20,000).
3. All items and/or groups of items whose total exceed twenty-five hundred dollars (\$2,500), but is not more than ten thousand dollars (\$10,000) will require informal quotations by telephone when time is of the essence.
4. A "Notice to Bidders" shall be published in the officially designated newspaper at least three times commencing not less than 21 days prior to the bid opening date. Notices may also be mailed to potential bidders sufficiently in advance of the scheduled bid opening date to permit timely preparation and submission of bids.
5. Bids shall be received until the opening time designated in the official notice. All bids shall be date stamped upon receipt remained sealed and shall be kept in a safe, locked location until the time for opening.
6. Bids shall be opened at the time and place set forth in the Notice to Bidders. All interested parties may also attend the opening of bids.
7. After being opened, all bids shall be recorded and analyzed. In this analysis, in order to determine whether the low bidder is "responsible," the Purchasing Agent shall consider whether the record of the bidder demonstrates or includes:
  - a. lack of adequate expertise, lack of prior experience with comparable projects, or lack of financial resources necessary to perform the work outlined in the contract in a timely, competent and acceptable manner;
  - b. engagement in criminal conduct in connection with any other government contract or the conduct of business activity that involves such crimes as extortion, bribery, fraud, bid-rigging and embezzlement;
  - c. grave disregard for the safety of employees or members of the public. The Purchasing Agent should determine whether employees will be properly trained and whether the equipment to be used is safe and functioning properly;
  - d. willful noncompliance with the state labor laws regarding prevailing wage and supplement payment requirements. All contracts on public work projects are required to pay their employees not less than the prevailing wage;
  - e. disregard for other state labor laws, including child labor, proper and timely wage payments and unemployment insurance laws;

- f. violations of the State Workers' Compensation Law including failure to provide proof of proper workers' compensation or disability coverage;
  - g. violations of any state or federal environmental statutes;
  - h. the failure to abide by state and federal statues and regulations regarding efforts to solicit and use disadvantaged, minority and women-owned business enterprises as potential sub-contractors;
  - i. the submission of a bid which is mathematically or materially unbalanced;
  - j. the submission of a bid which is so much lower than the contacting agency's confidential estimate that it appears unlikely that the contractor will be able to complete the project satisfactorily at the price bid; or
  - k. the presentation of false or misleading statements or any other issue that raises serious questions about the responsibility of the bidder.
8. The Purchasing Agency shall make a recommendation to the Board of Trustees as to the lowest responsible bidder who has met or complied with the bid specifications.
9. In the event there are two or more bona fide low responsible bidders, the Board may make an award to one of the low bidders or, in its discretion, it may reject all the bids and re-advertise the purchase. In making an award in the case of tied low bidders, the Board may give consideration to a local business or supplier.
10. Bid bonds or deposits of 5 percent of the bid price may be required, at the discretion of the Purchasing Agent, on all purchase contracts of less than \$25,000. Bid bonds or deposits of 5 percent of the bid price are required for labor or service contracts. Performance bonds of 100 percent of the bid price are required for all contracts in excess of \$25,000. Performance bonds on contracts for less than \$25,000 may be required, at the discretion of the Purchasing Agent.
11. Every bid shall contain the certification, properly executed by the bidder, required by Section 103-d of the General Municipal Law.
12. Minor deviations from specifications or compliance with bidding requirements, may be waived by the Board, upon the recommendation of the Purchasing Agent. The Purchasing Agent shall determine all questions of comparability or equivalency.

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