

**VESTAL CENTRAL SCHOOL DISTRICT**

**REGULATION 5410R**

**SUBJECT: ADMINISTRATIVE PROCEDURES FOR PROCUREMENT OF GOODS AND SERVICES**

This resolution sets forth the procedures of the Vestal Central School District to meet the requirements of the General Municipal Law, Section 104-b.

**I. PURPOSE**

Goods and services which are not required by law to be purchased by competitive bidding must be procured in a manner that ensures the prudent and economical use of public monies. Therefore, in the best interest of the taxpayers, goods and services of maximum quality at the lowest possible cost must be acquired, while guarding against favoritism, extravagance, fraud and corruption. To further these objectives, the Board of Education is adopting internal procedures governing all procurements of goods and services which are not required to be made pursuant to the competitive bidding requirements of General Municipal Law, Section 103.

**II. PROCEDURES FOR DETERMINING WHETHER PROCUREMENTS ARE SUBJECT TO BIDDING**

Procedures for determining whether a purchase of equipment, supplies or services is subject to competitive bidding shall be as follows:

Equipment

Prior to July 1 of a new fiscal year, the purchasing agent will review the equipment purchases proposed for the new year as listed in the approved budget to determine whether the purchases are subject to competitive bidding. The purchasing agent and the requisitioner must agree on a standard of quality for each item.

Any equipment purchases made during the school year must be reviewed by the purchasing agent. Method of purchases of like equipment items will be determined in accordance with the table outlined under Section IV of this document.

### Materials and Supplies

Standard Supply lists shall be established for supplies within general subject areas, i.e., science supplies, custodial supplies, etc., in order to determine whether the purchases are subject to competitive bidding. All commonly used items shall be organized in these groupings.

Purchases of supplies not included on standard supply lists shall be requisitioned by the user as needed during the school year. The user may indicate a proposed vendor but disposition of the request and method of purchase shall be determined by the purchasing agent.

### Services

The competitive bidding law states that professional service contracts such as for insurance, telephone, electricity, water or services performed by engineers, architects and attorneys can be entered into without following formal bidding procedures.

All other services not requiring competitive bidding shall be purchased as outlined in Section IV of this document.

Similar procurements to be made during a fiscal year must be grouped together for purposes of determining whether a particular item must be bid. The amount expended in previous years can be used as a guide. A statement that it is anticipated that the amount to be spent this year will not require competitive bidding should be included in the documentation.

Purchase contracts involve the acquisition of commodities, materials, supplies or equipment while contracts for public works involve services, labor or construction. Contracts that involve both goods and services must be reviewed on a case by case basis to determine which bid limits apply. If the contract involves a substantial amount of services and the acquisition of goods is only incidental, it can be considered a public works contract, i.e. interior painting of a building. However, replacing a boiler or furnace would consist primarily of a charge for the equipment, making it a purchase contract.

### **III. STATUTORY EXCEPTIONS FROM THESE POLICIES AND PROCEDURES**

Purchases from certain agencies are exempt from competitive bidding. These include contracts issued by the Office of General Services (state contracts) and those issued by any County in the State as exempted by General Municipal Law. State Finance Law Section 175-b exempts purchases made from agencies for the blind or disabled and Correction Law Section 186 exempts products made in correctional facilities.

#### **IV. PURCHASING METHODS TO BE USED FOR ITEMS NOT REQUIRING COMPETITIVE BIDDING**

##### Commodity Purchases

Up to \$ 1,999 Quotes not required. Purchasing agent retains right to request quotations if it is felt that it is in the best interest of the school district.

\$2,000 to \$9,999 A minimum of 3 verbal or written quotes- Quotations shall be obtained from at least three (3) vendors and shall be recorded on forms provided by the district.

\$10,000 to \$19,999 A minimum of three (3) written quotes- Written quotations shall be obtained from at least three (3) vendors and shall be submitted on forms provided by the district.

In all cases listed above, the purchase shall be made from the lowest responsible vendor that meets the specifications of the commodities to be purchased.

##### Public Works Contracts

Up to \$4,999 Quotes not required. Purchasing agent retains the right to request quotations if it is in the best interest of the school district.

\$5,000 to \$9,999 A minimum of 3 verbal or written quotes- Quotations shall be obtained from at least three (3) contractors. Quotations will be recorded on forms provided by the district.

\$10,000 to \$24,999 3 written quotes- Written quotations shall be obtained from at least three (3) contractors, and shall be submitted on forms provided by the district.

\$25,000 to \$34,999 5 written quotes- Written quotations shall be obtained from at least five (5) contractors, and shall be submitted on forms provided by the district.

The contract will be awarded to the responsible contractor providing the lowest quotation that meets the specifications of the work to be completed.

Catalogs or price lists can be used as a substitute for obtaining verbal or written quotes. Prices available under state contract can be used as a benchmark, i.e., if a written or verbal quoted price is below the state contract price, no other quotes are required. Written documentation must be provided.

If the minimum number of quotations cannot be obtained, documentation must be provided stating why they could not be obtained and approval must be authorized by the school district's purchasing official.



## **V. ADEQUATE DOCUMENTATION**

Forms will be provided to all persons generating requisitions. Copies of the appropriate forms must be attached to the requisition before it will receive central office approval.

A form for verbal quotations shall record the date, the item or service desired, price quoted, name of vendor and name of vendor's representative.

A form to be completed by the vendor shall state the date, description of the item or service to be provided, price quoted and name of the person executing the form.

Emergency situations are an exception to the process if three basic statutory criteria are met. These are that (1) the situation arises out of an accident or unforeseen occurrence or condition; (2) public buildings or property of the life, health or safety of the district's residents, staff or students are affected; and (3) the situation requires immediate action which cannot await quotations or competitive bidding. The Board of Education may pass a resolution declaring an emergency in order to waive competitive bidding requirements for materials or services costing above the \$20,000 and \$35,000 limits. The purchases or services should be acquired at the lowest possible cost by quotes to the extent practicable under the circumstances and with a written or verbal opinion of legal counsel.

In cases of emergency purchases or public works services that do not require competitive bidding, the purchaser should use the criteria established above, contact the purchasing agent or business official for approval. Monies will be encumbered and a purchase order number assigned. The appropriate forms will be submitted with the requisition at a later date.

## **VI. Alternative Formats for Instructional Materials**

Preference in the purchase of instructional materials will be given to vendors who agree to provide materials in a usable alternative format (i.e., any medium or format, other than a traditional print textbook, for presentation of instructional materials that is needed as an accommodation for each student with a disability, including students requiring Section 504 Accommodation Plans, enrolled in the School District). Alternative formats include, but are not limited to, Braille, large print, open and closed captioned, audio, or an electronic file in an approved format as defined in Commissioner's Regulations.

### District Plan

As required by federal law and New York State Regulations, the District has adopted the National Instructional Materials Accessibility Standard (NIMAS) to ensure that curriculum materials are available in a usable alternative format for students with disabilities. To facilitate this process, the District will participate in the National Instructional Materials Access Center (NIMAC) and will require that all contracts with publishers for textbooks and other printed core materials executed after December 2006 include a provision requiring the publisher to produce NIMAS files and send them to NIMAC.

## **VII. Environmentally Sensitive Cleaning and Maintenance Products**

In accordance with Commissioner's Regulations, State Finance Law and Education Law, effective with the 2006-2007 school year, the District shall follow guidelines, specifications and sample lists when purchasing cleaning and maintenance products for use in its facilities. Such facilities include any building or facility used for instructional purposes and the surrounding grounds or other sites used for playgrounds, athletics or other instruction.

Environmentally sensitive cleaning and maintenance products are those which minimize adverse impacts on health and the environment. Such products reduce as much as possible exposures of children and school staff to potentially harmful chemicals and substances used in the cleaning and maintenance of school facilities. The District shall identify and procure environmentally sensitive cleaning and maintenance products which are available in the form, function and utility generally used. Coordinated procurement of such products as specified by the Office of General Services (OGS) may be done through central state purchasing contracts to ensure that the District can procure these products on a competitive basis.

The District shall notify their personnel of the availability of such guidelines, specifications and sample product lists.

## **VIII. Apparel and Sports Equipment Purchases**

### Competitive Bidding Purchases

The Board of Education will only accept bids from "responsible bidders." A determination that a bidder on a contract for the purchase of apparel or sports equipment, is not a "responsible bidder" shall be based upon either or both of the following considerations:

- a) The labor standards applicable to the manufacture of the apparel or sports equipment including, but not limited to, employee compensation, working conditions, employee rights to form unions, and the use of child labor; or
- b) The bidder's failure to provide information sufficient for the Board of Education to determine the labor standards applicable to the manufacture of the apparel or sports equipment.

### Non-Competitive Bidding Purchases

The Board's internal policies and procedures governing procurement of apparel or sports equipment, where such procurement is not required to be made pursuant to competitive bidding requirements, shall prohibit the purchase of apparel or sports equipment, from any vendor based upon either or both of the following considerations:

- a) The labor standards applicable to the manufacture of the apparel or sports equipment including, but not limited to, employee compensation, working conditions, employee rights to form unions, and the use of child labor; or
- b) The bidder's failure to provide information sufficient for the Board of Education to determine the labor standards applicable to the manufacture of the apparel or sports equipment.

#### **IX. AWARDS TO OTHER THAN LOWEST RESPONSIBLE QUOTE OR BID**

Whenever any contract is awarded to other than the holder of the lowest responsible quote or bid, the reasons must be outlined and documented with facts. Delivery experience, poor quality, packaging restrictions, etc., may justify such a decision.

#### **X. ITEMS EXCEPTED FROM POLICIES AND PROCEDURES OF BOARD**

The Board sets forth the following circumstances when, or types of procurements for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the Vestal Central School District.

- Textbooks approved by the Board of Education
- Library books other than those provided under New York State contract.
- Purchases for which there is no possibility of competition (sole source items).
- Professional services such as labor relations counsel, school attorney, architects, engineers and other consulting services as required by the Board of Education.
- Small procurements as outlined in Section IV.

#### **XI. INPUT FROM STAFF**

Prior to their adoption, comments concerning these procedures shall be solicited from staff who are involved in the purchasing process. Comments will also be requested in the future.

#### **XII. ANNUAL REVIEW**

The Board of Education shall annually review its policy and these procedures. The purchasing agent shall be responsible for conducting an annual review of the purchasing policy and for an evaluation of the internal control structure established to ensure compliance with these procedures and Board policy. The purchasing agent shall review the procedures annually with the School Business Administrator.

### **XIII. UNINTENTIONAL FAILURE TO COMPLY**

The unintentional failure to comply with the provisions of General Municipal Law, section 104-b shall not be grounds to void action taken or give rise to a cause of action against the Vestal Central School District or any officer or employee thereof.