NJASBO
PUBLIC SCHOOL PURCHASING

“Purchasing Potpourri”
A Cornucopia of Compliance

PRESENTER
MR. JAMES SHOOP
SCHOOL BUSINESS ADMINISTRATOR (RET.)
March 2019
NJASBO Workshop

NJASBO is committed to provide the best possible guidance and support to School Business Administrators and other school officials to do their job and to do it well.

Topics for Discussion

Accounts Payable Activities
Administrative Code for Purchasing
Audits Facing School Districts
Authority to Purchase--Confirming Orders
Bid Opening Process
Cooperatives, National
Cooperatives, Purchasing Systems
Ethics in Purchasing
Franklin D. Roosevelt; Damon Runyon & Abraham Lincoln
Public Notice Legal Award of Contracts
Purchasing; Board of Education Actions
Renewal of Contract Guidance
Student Activity Funds Audit Findings

Technical support—Public School Purchasing
If you have questions on Public School Purchasing you may reach Jim Shoop at the following e-mail addresses

   jim@njasbo.com
   Shoop18A18A@gmail.com
Accounts Payable Activities
Accounts Payable Activities

Bills List Preparation and Review
Blanket Purchase Orders
Budget Account Number Oversight

Cancellation of Purchase Orders

Documentation Submission--Notification process to unresponsive administrators
Documents needed to pay vendor
Duties and Responsibilities; Accounts Payable—Job Description

Finance Committee Reports
Fixed Assets Codification
Forms, Forms and Forms

Internal Controls; Especially Duplicate Payments
IRS 1099 Reporting

Open Purchase Orders; During School Year—90 days
Open Purchase Orders; Year End Procedures

Payment Process—Internal Procedures; From Invoice to Payment
Payment Process—Vendor Procedures; Notification to Vendor
Payment Schedule—Annual Calendar Noting Payment Dates
Payments, Hand Check
Payments, Partial
Purchase Order Coding; B, Q, CC, RFP, EUS, Coop
Prompt Payment Laws; 90 day law and
Prompt Payment; Construction Law
Accounts Payable Activities

Receipt of Goods Process
Recording of Purchase Orders—Procurement Methods
Running Purchase Orders

SOP’s for Accounts Payable

Unauthorized orders—invoices without PO Number; Notification to SBA

Vendor Checks; Early Release Legal Requirements
Vendor Checks; Early Release Procedures
Vendor Checks; Pickup Procedures
Vendor Checks; Preparation
Vendor Documents: AA Certificate, BRC, W9. Chapter 271
Vendor Packet for New Vendors
Vendor Setup Procedures; Computer Database

Prepared by James Shoop, SHOOP SBA, LLC
Audits You May Meet in the Purchasing Process

You are Being Watched!

James Shoop, March 2019
You are Being Watched!

Purchasing involves financial transactions and if there is one truism in the Business Office this is it:

“All financial transactions are subject to auditor review!”

Audits You May Meet in the Purchasing Process

A. Affirmative Action—NJ Department of the Treasury—EEO/AA
   Public Agency Guidelines—January 2016

B. Annual Audit Program--NJDOE
   Section I, Chapter 5 Bids & Contracting/Purchasing

C. Federal Fiscal Monitoring—USDE and NJDOE
   Consolidated Monitoring Reports

D. Independent Audit Accountability Regulations—N.J.A.C. 6A:23A-5.5

E. Local Agency Procurement Review—USDA & NJ Division Food and Nutrition

F. NJDOE Select Abbott Audits
   KPMG/WISS Audits

G. Office of Fiscal Accountability and Compliance (OFAC)--NJDOE
   Public School Contracts Law Compliance Review—Investigation
You are Being Watched!

Audits You May Meet in the Purchasing Process

H. Office of the State Auditor—New Jersey State Legislature

I. Office of the State Comptroller (OSC)—New Jersey

J. State Commission of Investigation (SCI)—New Jersey

K. NJDOE Commissioner’s Compliance Audit

L. IRS Audits
   - Form 1099—Sports Officials
   - Employee vs. Contracted Service
   - Retirement Plans—403 (b) and 457
   - Student Activity Accounts—Boston Schools 2018--$32K Fine

M. E-rate Audit
   - Improper Procurement Procedures
   - Purchasing Ineligible Products/Services

Newspaper Articles

A. Fraud in New Jersey Public Schools

B. Purchasing Practices Gone Bad in New Jersey Public Schools
Purchasing and Audits
Affirmative Action—Public Agency Guidance


Audit of District’s Contract Compliance—page 4
The EEO/AA Contract compliance unit may review (audit) a public agency contracting process to ensure compliance with EEO/AA requirements.

Satisfactory—Agency maintains its compliance
Unsatisfactory
  Corrections to be made
  Penalties assessed
  Refer to Attorney General

Requirements of Public Agency—pages 5-7
• Appoint Public Agency Compliance Officer (P.A.C.O.) Section 2.1
• Mandatory Bid Advertisement Language Section 2.2

Bidders are required to comply with the requirements of N.J.S.A. 10:5-31 et seq., and N.J.A.C. 17:27 et seq.

• Mandatory Contract Language Section 2.3
  Exhibit A—Goods, Services and Professional Services—pages 11-12
  Exhibit B—Construction Contracts—pages 13-16

• Affirmative Action Evidence

Goods, Services and Professional Services
Public Agency is to receive evidence. Common evidence is the Certificate of Employee Information Report—Affirmative Action Certificate; Form AA302
Purchasing and Audits

Affirmative Action—Public Agency Guidance

Construction Contracts
Public Agency shall receive from the contractor a completed Initial Project Workforce Report—AA201 and monthly thereafter, Form AA202.

Public Agency Sanctions and Penalties—page 8-9   Section 2.9

- Failure to include mandatory language in bids, advertisements, contracts or specifications; (Including Exhibit A or Exhibit B)

- Failure to obtain affirmative action evidence from vendor/contractor;

- Failure to submit the Public Agency Compliance Officer (P.A.C.O.) Letter or to notify the Division of changes in P.A.C.O. designation;

- Failure to cooperate fully with the Division in the establishment and implementation of guidelines for determining whether a vendor or contractor has failed to provide equal employment opportunity in the hiring of minorities and women for public contracts;

If the Director finds that a Public Agency has violated the Act or regulations, the Treasurer is authorized to assess and collect fines in the amounts and time frames as follows:

First Violation – $250.00 per day for each violation during which the violation continues;

Second Violation – not more than $500.00 per day for each violation during which the violation continues; and

Third and Subsequent Violations – not less than $500.00 per day for each violation but not more than $1,000.00 per day for each violation.
Annual Audit

Purchasing
Purchasing and Audits
Annual Audit and Purchasing
Annual Audit Program Checklist

Section I—General Compliance—Chapter 5

**Bid Threshold Resolution**
It is suggested the resolution adopted by the board of education setting the bid threshold for the district be available for auditor review.

**Bid Threshold Review—Exceeding the Bid Threshold**
Auditors review vendor printouts to determine what contracts have exceeded the bid threshold. From this list auditors select various contracts as a test for their audit. Purchasing agents are then to explain the procurement process used to obtain the selected vendor contracts.

**Bids**
Some of the documents that are reviewed by auditors are
- Bid advertisement—from newspaper
- Board resolution awarding contract
- Bid sheets from all vendors
- Purchase orders that support the bid
- Statement of Ownership Form
- NJ Business Registration Certificate
- Other documents when so requested

**Authorizing Award of Contracts—Board Resolution**
It is suggested that resolution authorizing the School Business Administrator to award contracts less than the bid threshold be available for auditor review.
Purchasing and Audits
Annual Audit and Purchasing

Purchasing Manual and Standard Operating Procedures for Purchasing
Purchasing agents should present to the auditor a current copy of the districts’ Purchasing Manual and/Standard Operating Procedures for purchasing, when requested.

Public Notices
Purchasing agents should have all public notices pertaining to purchasing available for the auditor. Public notices should be prepared for the following purchases:

- Professional Services—Award of Contracts
- Competitive Contracting—Award of Contracts
- EUS Contracts—Award of Contracts

State Contract Resolutions
Purchasing agent should have readily available all board resolutions awarding contracts that were procured by the State of New Jersey—State Contracts.

Travel Purchases Orders—Reimbursements
Purchasing agents should have travel folders with documents that support the travel reimbursement. The documents should be the following:

- Documentation of Approval—Superintendent
- Documentation of Approval—Board of Education Resolution—if necessary
- Receipts
- Travel Report
- Personal Vehicle Documentation—Registration and Insurance
Purchasing and Audits
Annual Audit and Purchasing

Credit Cards
Neither boards of education/board of trustees nor district/charter schools/renaissance school project officials may use credit cards for the purchase of goods and services. Audit Program Page I-5.9

Statutory requirements direct how boards of education/board of trustees may purchase goods and services and establish the procedures to follow in paying for the purchase of goods and services.

Purchases made by boards of education/charter school board of trustees must comply with N.J.S.A. 18A:18A-1 et seq., the Public School Contracts Law. The payment of claims by a board of education/board of trustees must also comply with N.J.S.A. 18A:19-1 et seq., “Expenditure of Funds; Audit and Payment of Claims.” These regulations are intended to ensure that competitive bidding procedures are followed and certifications regarding the authenticity of claims are received.

Pursuant to N.J.S.A. 18A:19-13 and N.J.A.C. 6A:23A-16.8, a board of education/board of trustees may establish a petty cash fund on July 1 of each year, or as needed, for the purpose of making immediate payments of comparatively small amounts. Large purchases should be made through the contractual order system.
Federal Fiscal Monitoring
Federal Fiscal Monitoring

Monitoring of Federal Grants--ESSA
The New Jersey Department of Education through the Office of Grants Management and the Office of Fiscal Accountability and Compliance, monitors and reports on school districts and their expenditures of federal grant funds.

The NJDOE monitors and reports on the following federal grants in accordance with the Every Student Succeeds Act (ESSA)

- Title I, Part A—Improving Basic Programs Operated by LEA’s
- Title II, Part A—Supporting Effective Instruction (Educators)
- Title III, Part A—English Language Acquisition, Language Enhancement and Academic Achievement
- Title IV, Part A—Student Support and Academic Enrichment Grants (Programs)
- I.D.E.A.—Individuals with Disabilities Education Act
- Perkins—Carl D. Perkins Vocational and Technical Educational Improvement Act

Consolidated Monitoring Reports
On an annual basis, the NJDOE selects about twenty-five to fifty (25-50) school districts and sends in a monitoring team to review federal grant expenditures. The NJDOE issues a report complete with findings and recommendations. Each district has to prepare a Corrective Action Plan.

The Consolidated Monitoring Reports are public information and may be found through the noted link:

http://www.nj.gov/education/compliance/monitor/consolidated/201617/
Federal Fiscal Monitoring

Recommendation—Review Consolidated Monitoring Reports
It is recommended that School Business Administrators review Consolidated Monitoring Reports to understand what findings school districts received. The SBA should then review his current expenditure procedures to ensure compliance.

Major Findings—Consolidated Monitoring Reports

- Confirming purchases
- Failure to have a Disbarred Vendors Policy
- Failure to quote for purchases over $3,500
- Failure to bid or issue proposals—professional services contracts
- Using NJ State Contract Vendors and other cooperative purchasing agencies as sole cost evaluation
- Failure to include Stevens Amendment language in bid
- Failure have current Purchasing Manual
- Failure to have written procurement procedures pursuant to Federal Code

Resources

- NJ Department of Education—New Uniform Grant Guidance Web Page
  
  http://www.state.nj.us/education/grants/ugg/
Independent Audit

Accountability Regulations

N.J.A.C. 6A:23A-5.5

Independent Audit—Accountability Regulations

N.J.A.C. 6A:23A-5.5—Expenditure and Internal Control Auditing
School districts that receive over 50% of state aid in their general fund budget, pursuant to a schedule determined by the Commissioner, shall engage an accountant or auditing firm (other than the present one for the district) to conduct a “sampling of expenditures made” to determine the

“the educational value and/or reasonableness of the said expenditures.”

Recommendation—Monitor Expenditures
It is recommended that all district expenditures be monitored to ensure compliance with law and code and further ensure the educational or operation value of the expenditure.

The State of New Jersey Department of Education has provided guidance to school districts through Administrative Code N.J.A.C. 6A:23A-5.8 on board expenditures for meals and refreshments.
The expenditure of public funds (purchase order) for meals and refreshments may be used for the following:

**Permitted Activities for Meals; Refreshments; Catering**

- **Student Activities**
  Reasonable costs for light meals and refreshments directly related to activities that benefit students and are part of the **instructional program** are permissible. These activities must be part of the instructional program and not solely for student entertainment.

- **Parent Activities**
  Reasonable costs* for light meals and refreshments for parent activities are permissible. It is expected that expenditures for this purpose will be minimal and infrequent.

- **Dignitaries**
  Reasonable costs* for light meals and refreshments for dignitaries as defined in State code, are permissible.

- **Board Member Meetings -- N.J.A.C. 6A:23A-7.12(f)**
  Light meals and refreshments* are permitted for all board members and for employees who are required to attend a board of education meeting.

*Please note that costs for light meals and refreshments are limited as follows:

- Breakfast: $7.00 per person
- Lunch: $10.00 per person
- Dinner: $15.00 per person

(NJ OMB Circular 16-11-OMB Section XI—Letter J)
Documentation Required—Light Meals and Refreshments

Documentation must be provided to support expenditures for light meals and refreshments. The following information is to be provided on the Purchase Order:

- Description of the activity;
- Purpose/justification of the activity; goal; objectives;
- Make-up of the group receiving the meals; and
- Names of employees and board members included in the group.

Prohibited Activities for Meals; Refreshments; Catering

- **Athletic Activities—Feeding Guests**
  Light meals and refreshments served to *guests* at any athletic event, game or contest are not permitted.

- **Staff and Employees of the School District**
  Light meals and refreshments are not permitted for employees and staff of a school district, unless the staff member or employee is essential to a *student activity* where light meals or refreshments are being served. N.J.A.C. 6A:23A-7.12 (d); 6A:23A-5.8 (b) (4)

- **Honoring Employees**
  Receptions, dinners or other social functions held for or honoring any employee or group of employees are not permitted when public funds are being used.

  Please note: the use of public funds (purchase order) for the purchase of employee recognition awards is permitted. For example—Retirement Plaques!
A Word About Field Trips

Field Trips—Instructional Program

All field trips paid through public funds (purchase order) shall be part of the instructional program, have an educational value and shall be reasonable in cost. Field trips solely for student entertainment are prohibited when using public funds.

Field Trips—Not Part of the Instructional Program

Field trips that are not part of the instructional program and are solely for student entertainment may be paid using student activity funds.

Board Resolution Approving Field Trip Destination

All field trip destinations shall be pre-approved by the board of education. A board resolution approving the field trip must be attached to the purchase order for admission and transportation, when applicable.

Just a Reminder! New Jersey State Law—Field Trips

N.J.S.A. 18A:36-21—Field trips; costs to be borne by parents or guardians, exceptions, financial hardship

Any board of education may authorize field trips for which all or part of the costs are borne by the pupils’ parents or legal guardians, with the exception of pupils in special education classes and pupils with financial hardship. In determining financial hardship the criteria shall be the same as the statewide eligibility standards for free and reduced price meals under the State school lunch program.
United States
And
New Jersey

Department of Agriculture

Local Agency Procurement Review
Food Services--Local Agency Procurement Review

The United States Department of Agriculture and the New Jersey Department of Agriculture, Division of Food and Nutrition, announced in January 2017 that school districts in New Jersey shall be subject to a Food Services Local Agency Procurement Review.

The Division of Food and Nutrition in conducting its review will determine if the school food authority (SFA) when procuring goods and services for food services, was in compliance with Federal procurement rules 2 CFR 200.317 et seq., and other federal and state procedures. Did the SFA use the following procurement methods for each purchase?

- Micro-purchases
- Small purchase procedures
- Sealed bids
- Competitive proposals
- Non-competitive procedures

The objectives of the review are to ensure that:
- All procurement is made in an open and competitive manner;
- The district has a Code of Conduct for all employees involved in the procurement process;
- The district has a written set of procurement procedures;
- The district used appropriate procurement methods;
- The district monitored all contracts.

The Division of Food and Nutrition shall also conduct a procurement review of all Food Services Management Company contracts and the procurement practices used by the FSMC. The USDA and the NJDOA have instituted a new audit called the Local Agency Procurement Review. One day the USDA and NJDOA will stop in your school district and do an audit on how a school district purchases goods and services just for the Food Services Department.

Both government agencies want the purchases to comply with the New Jersey Public School Contracts Law and the new Federal Procurement Regulations 2 CFR 200.317 et seq.
Food Services--Local Agency Procurement Review

Guidance to School Districts*
School districts are required to comply with the new Federal regulations on purchasing. To assist school districts, the USDA and the NJDOA have issued seven (7) documents for SBA’s to read, learn and utilize. They are as follows:

- Form #325—Code of Conduct and Procurement Procedure Checklist
- Form #326—Sample Procurement Procedures for School Authorities
- Form #327—Sample Code of Conduct for Food Procurement
- Form #331—Informal Procurement Log
- Form #358—Federal Funds Procurement Method Selection Chart
- USDA Memo—Buy American
- August 15, 2017—Webinar of Food Services Procurement
- August 30, 2017—Memo NJDOA Federal Procurement Requirements

Finally all School Business Administrators have to comply with Federal Procurement Regulations 2 CFR 200.318 et seq.

*It is recommended from time to time, the School Business Administrator review the district’s SNEARS portal to determine if there have been changes or additions to all guidance to school districts.

Final Note

Navigation the Uniform Grant Guidance
All School Business Administrators should become familiar with the following guidance as found on the NJDOE website:

http://www.state.nj.us/education/grants/ugg/
Select Abbott District Audits

NJDOE 2007-2008
Select Abbott District Audits—NJDOE—2007-2008

Abbott School Audits—2007-2008
In 2007, the NJDOE entered into a contract with KPMG, a professional firm, to conduct an audit of the Passaic Public Schools. This was part of a statewide audit of all Abbott School Districts. Part of the scope of the audit was to review expenditures of the school district over a two (2) year period.

Analysis of Expenditures
The NJDOE asked KPMG to determine whether the expenditures were reasonable and if the expenditures were of an educational or operational value. Could they be linked to a district initiative or program? KPMG also had to determine if the expenditures were efficient or excessive.

KPMG Activity—March 2007 through June 2007
KPMG over a four (4) month period reviewed 1808 individual purchase orders with me. They asked the following questions:

- Why did you buy this?
- What is the educational value or operational value of the purchase?
- How did this purchase benefit the students?
- What district program was linked to the purchase?
- Then KPMG made their own determination whether the purchase was inefficient or excessive.

In many cases we had to call district administrators at their offices or even at home to obtain the rationale of the purchase. I could not provide many of the answers as my job was to ensure the purchases were in compliance with the Public School Contracts Law.
Select Abbott District Audits—NJDOE--2007-2008

Results of the Audit—Part 1

KPMG placed the expenditures into three (3) categories

- **Reasonable**—expenditure supports the educational or operational activities of the district.
- **Discretionary**—expenditures were not of educational value or they appeared to be excessive.
- **Inconclusive**—expenditures appeared to be reasonable, however the purchases may appear to be excessive.

Summary of Purchases—total purchase orders reviewed, 1808 PO’s

<table>
<thead>
<tr>
<th>Number of Purchase Orders</th>
<th>Value of Purchases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reasonable 1701</td>
<td>$9,608,000</td>
</tr>
<tr>
<td>Discretionary 23</td>
<td>26,000</td>
</tr>
<tr>
<td>Inconclusive 84</td>
<td>229,000</td>
</tr>
</tbody>
</table>

Results of the Audit—Part 2

The school district instituted the requirement of the Purchase Order Rationale Form. District administrators and school principals who recommend purchases now had to explain in writing, the **educational** or **operational need** for the purchases.

Administrators now had to justify the need for the purchase and if so required, explain the purchase at a board or education meeting. A rationale form was prepared and instructions on the use of the form were provided to all.
Recommendation—Institute the Purchase Order Rational Form

A Purchase Order Rationale Form shall be attached to the top of each purchase order submitted to the ________________. This form asks for a written explanation as to the educational or operational need for the purchase.

Administrators who submit purchase orders have to put in writing why the purchase is essential to the school district. Administrators who sign off on purchase orders will now have to provide explanations on the following:

- How students will learn or benefit from the purchase?
- What educational achievement or program may be linked to the purchase?
- How is the purchase of operational value to your school/office?
- Are the goods/services purchased useful for the long term rather than immediate need?
- Have inventories been checked to determine whether there is a real need for the purchase?

Administrators will now have to justify the need for the purchase and if so required, explain the need at a Board of Education meeting.
NJDOE

Office of Fiscal Accountability
And
Compliance

OFAC
Office of Fiscal Accountability and Compliance

The Office of Fiscal Accountability and Compliance acts on the Commissioner's behalf in the receipt, exchange, review and investigation of information relevant to the efficient supervision of all schools of the state receiving support or aid from federal and state appropriations in accordance with N.J.S.A. 18A:4-23. The office is responsible for all investigative and many auditing functions conducted by the Department, as well as criminal background checks of applicants for positions in New Jersey schools. The office also coordinates school preparedness and emergency planning of all schools.

NJDOE Website—April 2017

Public School Contracts Law Compliance Review
OFAC conducts Public School Contracts Law compliance reviews of school districts in New Jersey. The compliance review and findings have to be accepted by a board of education and then the board has to develop a corrective action plan. The review and corrective action plan has to be reviewed at a public meeting and they become public records. In some cases, the OFAC recommends to the Commissioner of Education to “fine” the school district and withhold the monetary “fine” amount in the following year’s State Aid to the district.

Noted Cases Resulting in Fines
- Failure to bid
- Improper change orders
- Improper award of contracts
- Breaking the bidding laws
- Improper classification—professional services contract
- Improper purchasing; confirming orders
Office of the State Auditor

The Office of the State Auditor provides independent, unbiased, timely, and relevant information to the Legislature, agency management, and the citizens of New Jersey that can be used to improve the operations and accountability of public entities. In addition, the State Auditor provides assurances on the state’s financial statements annually.

School District Audits

N.J.S.A. 18A:7F-6d authorizes the Office of the State Auditor to audit the accounts and financial transactions of any school district in which the state aid equals 80 percent or more of its net budget for the year. In addition, in accordance with N.J.S.A. 18A:7A-57, the State Auditor is authorized to perform a forensic audit of school districts with a general fund deficit and meeting additional specific criteria as stated in the statute.

As of March 2019, there were about 94 complete audits listed on the New Jersey Legislature, State Auditor website.

https://www.njleg.state.nj.us/legislativepub/auditreports_department.asp#EDU
New Jersey Office of the State Comptroller

The Office of the New Jersey State Comptroller is an independent office created to bring greater efficiency and transparency to the operation of all levels of New Jersey's government.

The office audits government finances, reviews the performance of government programs and examines government contracts. It is responsible for conducting audits of the executive branch of state government, public institutions of higher education, independent state authorities and local governments and boards of education. The office also is responsible for the oversight of Medicaid funds and acts to detect and recover funds that are improperly expended.

What the office does:

- Audits government finances
- Examines efficiency of government programs
- Scrutinizes government contracts
- Investigates and uncovers misconduct, waste and abuse at all levels of New Jersey Government and within New Jersey's Medicaid program.

Office of the State Comptroller Website April 2017

NJASBO Presentation—September 2017
The Office of the State Comptroller made a presentation to the NJASBO membership on the workings of the Office of the State Comptroller.

NJASBO Website

**New Jersey Office of the State Comptroller**

**Guidance and Reports**
The Office of the State Comptroller provides guidance to state and local agencies and issues reports with findings. Among those of interest found on the OSC website are:

- **Report** -- Best Practices for Awarding Service Contracts
- **Report** - An Analysis of Legal Fees Paid by New Jersey Local Governments
- **Report** - Selection and Use of Audit Firms by New Jersey Government Units

**Compliance Information** -- Procurement

In accordance with N.J.S.A 52:15C-10, contracting units must notify OSC as early as practicable, but no later than 30 days before advertisement, of any negotiation or solicitation of a contract that may exceed $10 million.

Contracting units must also provide post-award notification for any contract for an amount exceeding $2 million. Notification must be given within 20 days of the award.

**Compliance Guidance Forms** — Website and Letter to Superintendents — April 2018

- Pre-Advertisement Notice for Contracts $10 million or more
- Post-Award Notice for Contracts $10 million or more
- Post-Award Notice for Contracts $2 million but less than $10 million
- Pre-Advertisement Notice for Contracts Subject to EO 125 Review
- Post-Award Notice of Contracts Reviewed Under EO 125
- Post-Award Notice for Emergency Contracts Valued at More than $2 Million
New Jersey

State Commission of Investigation

SCI
New Jersey State Commission of Investigation

The State Commission of Investigation was created in 1968 by the New Jersey Legislature. The Commission was given the responsibility to conduct investigations in connection with:

a. The faithful execution and effective enforcement of the laws of the State, with particular reference but not limited to organized crime and racketeering;

b. The conduct of public officers and public employees, and of officers and employees of public corporations and authorities; and

c. Any matter concerning the public peace, public safety and public justice.

The SCI is an independent fact-finding agency whose mission is to investigate waste, fraud and abuse of government tax dollars. It is empowered to monitor and assess the threat posed by organized crime and to recommend new laws and other systemic remedies to protect the integrity of the governmental process on behalf of the citizens of New Jersey.

The Commission is required by law to pursue these investigations beyond the sphere of political influence or favoritism. The law requires the SCI's findings to be made public through written reports and/or public hearings.

As of March 2019, there were about 12 complete reports listed on the New Jersey State Commission of Investigation website.
NJDOE
COMMISSIONER’S
COMPLIANCE
AUDIT
NJDOE Commissioner’s Compliance Audit—N.J.A.C. 6A:23A-4.1

The Commissioner may appoint an external entity to perform a compliance audit of a school district's general fund spending upon identification that the school district may be spending State education funds for purposes that are not in compliance with State education laws and regulations.

(b) The final report shall include, as applicable:

1. Specific findings of:

   Spending that was not in compliance with Federal and State law and regulations;

   Procedural noncompliance with Federal and State law and regulations;

   Noncompliance with GAAP and/or generally accepted business practices;

   Weaknesses in the system of internal controls; and

   Questionable or inefficient spending practices;

2. The cause of each finding;

3. Specific corrective recommendations; and

4. The school district response to each finding and recommendation.

(c) The Commissioner may use the audit report as evidence for the appointment of a State monitor pursuant to N.J.S.A. 18A:7A-55.

(d) The school district shall reimburse the Department the total cost of the compliance audit if the audit determined State aid spending was not in compliance with State education law and regulation.
Internal Revenue Service Audits

Form 1099—Sports Officials
Employee vs. Contracted Service
Retirement Plans—403 (b) and 457
Student Activity Accounts—Boston Schools 2018--$32K Fine
Federal E-rate Audits

Improper Procurement Procedures
Purchasing Ineligible Products/Services
And Don’t Forget!

NJQSAC
Authority
to
Purchase

Public School
Contracts Law

Prepared by James Shoop, March 2019
Authority to Purchase

A. Who has the authority to purchase in a school district?


Purchasing Agent means the

- Secretary of the Board
- School Business Administrator (Assistant Superintendent of Business)
- Business Manager

The Purchasing Agent is duly assigned the authority, responsibility, and accountability for the purchasing of the Board and having the power to:

- Prepare advertisements for bids
- To advertise for and received bids
- To award contracts less than the bid threshold when so authorized by the board.

B. How Does the Purchasing Agent purchase goods and services for the district?

The Purchasing Agent issues a purchase order.


C. What is the purchasing process for the district?

1. Purchasing Agent prepares and signs a purchase order.
2. The purchase order is sent to the vendor
3. The vendor receives the purchase order and then, only then, the vendor provides either the goods or services to the district.
D. Unauthorized or Confirming Orders

If there is any deviation from this process, the purchase becomes an unauthorized purchase or a confirming order. The district then becomes subject to any penalties outlined in State law and code. **District employees may be subject to sanctions as recommended by the Superintendent of Schools.**

The district may also receive an audit finding and the district may also lose points in the NJ QSAC Fiscal Management Section.

**Fiscal Indicator DPR #15 Effective July 1, 2018**

4 Points Assessment

The district board of education approves purchase orders approved by only the purchasing agent and issued in advance of goods received or services rendered and encumbered for the full contractual amount. **There are no confirming orders.**

Bluntly speaking, only the Purchasing Agent of the school district is authorized by law to purchase on behalf of the district.

- No Principals
- No Coaches
- No Custodians
- No Teachers
- No Supervisors
- No Superintendents
- No Architects; Engineers
- No Board Members

**Withholding of State Aid—N.J.A.C. 6A:23A-5.4**

The NJ Department of Education shall withhold State funds from any public school district which fails to obey the provisions of the Public School Contracts law.
The Plan!

To assist the Purchasing Agent to maintain control over the purchasing process, I have developed a set of strategies to limit unauthorized purchases.

“Do not say, do or sign anything that can ruin you professionally.”
Strategies to Limit Unauthorized Purchases
Strategy #1

Change the Business Office Terminology

Eliminate the term “Confirming Order” from the official vocabulary of the Business Office. Call the confirming order what it really is – an unauthorized order!


Only the Purchasing Agent is authorized to make purchases on behalf of the school district.
Strategy #2

Superintendent Letter to All Employees

It is recommended that on an annual basis, the Superintendent of Schools or the School Business Administrator, send a letter to all employees in the school district, informing them of the possible consequences of unauthorized (confirming) orders.

The letter should highlight the following;

- The authority to purchase;
- Explanation of an unauthorized purchase;
- Laws and code relevant to purchasing; and
- District warning and sanctions.

The letter should be given to all employees and discussed at staff meetings.

A sample letter is attached.
To: All School District Employees

From: _________________, Superintendent

Date: _________________

Re: Purchasing Procedures

All purchases of goods and services must be made through the proper purchase order process as outlined in the school district purchasing manual.

Unauthorized Purchases
Any school district employee who orders and/or receives any goods or services without first going through the approved purchase order process, has made an unauthorized purchase. Unauthorized purchases are a violation of

- Board of Education Policy
- NJQSAC Fiscal Management DPR Indicator #15

The district may be subject to penalties as outlined in N.J.A.C. 6A:23A-5.4 (a).

The State of New Jersey conducts audits of the district’s business practices. Failure to comply with State law, regulations and board policy, with respect to contracting with vendors, may place the district at risk for penalties and may in certain instances place individual liability on district employees.

We will be working with the Business Office to monitor compliance with this directive.

If you have any questions about the district’s purchasing practices, please do not hesitate to contact the Business Office at ____________________________.

c. School Business Administrator
   Board Attorney
Strategy #3

Annual Training Session

The School Business Administrator, to be in compliance with New Jersey Administrative Code N.J.A.C. 5:34-1.1(b), should provide an annual training session(s) to all officials involved with the purchasing process.

A letter should be sent to all principals and district administrators inviting them to the training session.

Attendance should be taken and let it be known that any makeup training sessions will be held on a Friday afternoon at 3:15 p.m.
Strategy #4

Annual Letters to Vendors

The School Business Administrator should, on an annual basis, send a letter to all vendors who provide goods and services to the school district.

The main focus of this letter is to inform vendors about authorized purchases and unauthorized purchases.

The vendors have to be told up front to only accept requests for purchases through the approved purchase order process.

It is also a good time to inform vendors about your district’s strict policy on vendor relations and ethics in purchasing.

A sample letter is attached.
UNAUTHORIZED ORDERS

Official Notification

Authorized Purchases
The ANYTOWN Board of Education only recognizes purchases made through the approved purchase order process. All purchases made by the ANYTOWN Public School District require:

- Written Purchase Order
- Purchase Order Number; and an
- Authorized Signature (Purchasing Agent)

Unauthorized Purchases
Any Board employee who orders and/or receives any materials, supplies or services without first going through the approved purchase order process has made an unauthorized purchase.

Vendors’ Responsibility

- Do Not Honor Requests!
  Vendors are not to honor or accept any requests for goods or services unless the vendor receives a written purchase order with an authorized signature and a purchase order number.

- Contact the Business Office!
  Please alert ______________ at ______________ if any Board employee attempts to place an order without an authorized purchase order.

- You will NOT Get Paid!
  The ANYTOWN Board of Education will not be held responsible for any unauthorized orders or unauthorized purchases.

Authorized Signatures
The ANYTOWN Board of Education will only recognize purchase orders signed by the School Business Administrator.
**ETHICS IN PURCHASING**

**Vendor Relations**

**Recommendation of Purchases**
It is the desire of the Board of Education to have all Board employees and officials practice exemplary ethical behavior in the procurement of goods, materials, supplies, and services.

School district officials and employees who recommend purchases shall not extend any favoritism to any vendor. Each recommended purchase should be based upon quality of the items, service, price, delivery, and other applicable factors in full compliance with N.J.S.A. 18A:18A-1 et seq.

**Solicitation/Receipt of Gifts – Prohibited**
School district officials and employees are prohibited from soliciting and receiving funds, gifts, materials, goods, services, favors, and any other items of value from vendors doing business with the Board of Education or anyone proposing to do business with the Board.

**Vendor Responsibility**
Offer of Gifts, Gratuities -- Prohibited
Any vendor doing business or proposing to do business with the Board of Education, shall neither pay, offer to pay, either directly or indirectly, any fee, commission, or compensation, nor offer any gift, gratuity, or other thing of value of any kind to any official or employee of the Board of Education or to any member of the official’s or employee’s immediate family.

**Vendor Influence -- Prohibited**
No vendor shall cause to influence or attempt to cause to influence, any official or employee of the Board of Education, in any manner which might tend to impair the objectivity or independence of judgment of said official or employee.

**Vendor Certification**
Vendors or potential vendors will be asked to certify that no official or employee of the Board of Education or immediate family members are directly or indirectly interested in this request or have any interest in any portions of profits thereof. The vendor participating in this request must be an independent vendor and not an official or employee of the Board of Education.

**CONTRIBUTIONS TO BOARD OF EDUCATION MEMBERS**

**Award of Contract – Reportable Contributions – N.J.A.C. 6A:23A-6.3(a) (1)**
“No board of education will vote upon or award any contract in the amount of $17,500 or greater to any business entity which has made a contribution reportable by the recipient under P.L.1973, c83 (codified as N.J.S.A. 19:44A-1 et seq.) to a member of the board of education during the preceding one year period.”

**Contributions During Term of Contract – Prohibited – N.J.A.C. 6A:23A-6.3(a) (2) (3)**
“Contributions reportable by the recipient under P.L. 1973, c83 (codified as N.J.S.A. 19:44A-1 et seq.) to any member of the school board from any business entity doing business with the school district are prohibited during the term of the contract.”

“When a business entity referred in (a) (2) is a natural person, contribution by that person’s spouse or child that resides therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.”
Strategy #5

Individual Letters to Vendors

It is going to happen even in the best school districts! There will be unauthorized purchases. The School Business Administrator should take some corrective action to limit these unauthorized purchases. Attached are three (3) sample letters that may be used as the occasion arises.

1. **Letter to Vendor – Unauthorized Purchase**

   This letter to the vendor identifies the purchase that was made through the invoice submitted by the vendor. The SBA puts the vendor on notice of the unauthorized purchase and asks the vendor to

   “. . . acknowledge in writing to my office that you fully understand these purchasing procedures.”

   The SBA will not start the payment process if there is no written acknowledgement.

2. **Letter to Vendor – Items Added to the Purchase Order**

   This letter reminds the vendor that only goods and services listed on the purchase order are to be delivered or rendered. There are times when an employee may add an item to a purchase order if another item is out of stock. The Business Office usually finds out about these purchases when the invoice submitted by the vendor does not match the items on the purchase order.

   Adding items to a purchase order is an unauthorized purchase. Only the Purchasing Agent may authorize purchases for the district. This letter calls for the vendor to contact the school to make arrangements to pick up the unauthorized items.

3. **Letter to the Vendor – Cannot Pay Invoice**

   This letter is usually sent to the vendor who repeatedly violates school district procedure by providing goods and services to the district without first receiving an authorized purchase order.

   **A final note!** For documentation purposes, it is suggested that copies of all letters be sent to the Superintendent, the Board Attorney and the Principal/Administrator.
Letter to Vendor – Unauthorized Purchase

ANYTOWN BOARD OF EDUCATION
Address
City, State, Zip

Date: ____________________

Re: Unauthorized Purchase -- Services/Goods

I am sorry to inform you that

___________________________________  
Name of Company

___________________________________  
Invoice Number

provided unauthorized services and or goods to the Board of Education. The Board of Education pursuant to State Law and Board Policy authorizes all purchases through an approved signed purchase order. There is no purchase order for the following purchase(s):

<table>
<thead>
<tr>
<th>Date</th>
<th>Amount</th>
<th>Service/Goods</th>
</tr>
</thead>
<tbody>
<tr>
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The district has taken corrective action on our part.

I ask that ____________________ in the future provide no services or goods unless a signed approved purchase order is first received by your company.

If any employee of the ____________ Board of Education contacts you to provide any service or goods for the district, do not do so unless you receive from the Board of Education a signed purchase order with a purchase order number authorizing you to perform the service or provide the goods.

Please acknowledge in writing to my office that you fully understand these purchasing procedures.

As for the above listed invoice(s), it will be reviewed by district officials. A determination will be made whether to pay the invoice or not.

Yours truly,

_____________________
School Business Administrator/Board Secretary

c: ________________, Superintendent of Schools
    ________________, Board Attorney
    ________________, Principal/Administrator
Letter to Vendor – Items Added to the Purchase Order

ANYTOWN BOARD OF EDUCATION
Address
City, State, Zip

Date: __________________________

Re: Unauthorized Purchase—**Items Added** to Purchase Order #________

I am sorry to inform you that ___________________ provided unauthorized goods/materials to the Board of Education.

The Board of Education pursuant New Jersey State Law and Board Policy authorizes all purchases through an approved signed purchase order. The attached purchase order (#_______) to your company lists the approved items.

The invoice (__________) submitted by your company for this purchase order has the following extra items which were not on the original purchase order:

<table>
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<tr>
<th>Quantity</th>
<th>Description</th>
<th>Unit Price</th>
<th>Total Price</th>
</tr>
</thead>
</table>

This is an unauthorized purchase! **The school and your company had no authority** to add items to the purchase order.

Please submit a revised invoice deleting the additional items. The school district will only pay for the items on the original purchase order. **You may want to contact the school in question to work on having the items in question returned.**

Yours truly,

________________________
School Business Administrator/Board Secretary

C: ________________, Superintendent of Schools
_______________, Accounts Payable Manager
_______________, Board Attorney
_______________, Principal / Administrator
Letter to the Vendor – Cannot Pay Invoice

ANYTOWN BOARD OF EDUCATION
Address
City, State, Zip

Date: ______________________________

________________________________________
________________________________________

Re: Invoice No. ____________

*Please note this is an unauthorized purchase!*

The Board of Education only recognizes purchases made through the approved purchase order process.

Please do not accept any requests for goods or services unless the request is made on a signed purchase order with a purchase order number.

**We cannot pay this invoice.** *(Go ahead and sue us!)*

Yours truly,

________________________

School Business Administrator/Board Secretary

Enclosure

C: ________________________, Superintendent of Schools

_______________________, Board Attorney
Strategy #6

Formalize the Purchasing Process

It is recommended to formalize the purchasing procedures of the district and to highlight the authorization to purchase process. Suggested methods to formalize the process could be the following:

1. **Update Board of Education Policy on Purchasing**

   All school districts, from time to time, should review all board policies and regulations to ensure compliance with current laws and code; and to furthermore, codify the actual purchasing practices of the school district.

2. **Adopt Annual Resolution on Authorization for Purchasing**

   The board should adopt on an annual basis, a resolution on Authorization for Purchasing of Goods and Services. Among the suggested topics in the board resolution are:
   
   a. Authorization to Purchase;
   
   b. Aggregation and Remaining Amount;
   
   c. Preparation of Bid Advertisement; Opening of Bids;
   
   d. Authorized Purchases; and

   e. Unauthorized Purchases

   A sample resolution is attached.

3. **Purchasing Manual – Preparing and Adoption**

   It is suggested that every school district prepare a working, user friendly purchasing manual. The manual will be the guidebook for all employees to understand the district’s purchasing procedures. The manual should be revised on an annual basis and approved by the board of education, prior to the beginning of the new fiscal year.

   The Purchasing Manual should emphasize again, that the only person in the school district that is authorized to purchase goods and services is the Purchasing Agent.
Authorization for Purchasing of Goods and Services

Authorization to Purchase

The Board of Education, pursuant to N.J.S.A. 18A:18A-3 (a), designates ____________________, School Business Administrator, Board Secretary, as the Purchasing Agent for the Board of Education and authorizes her/him to award contracts, in full accordance with the law, for purchases that do not exceed in the aggregate in a contract year the total sum of $40,000.00 (bid threshold) without public advertising for bids. Furthermore, __________________ is authorized to solicit competitive quotations pursuant to N.J.S.A. 18A:18A-37(a) and to award contracts pursuant to N.J.S.A. 18A:18A-37(c). In absence or unavailability of the Purchasing Agent, the board hereby authorizes NAME OF PERSON, TITLE, to award contracts pursuant to N.J.S.A. 18A:18A-3 (a).
The Bid Opening Process

New Jersey Public Schools; Charter Schools
March 2019

James Shoop
Fairfield, NJ 07004
Shoop18A18A@gmail.com
# The Bid Opening Process
New Jersey Public Schools; Charter Schools

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The Bid Opening Process  
New Jersey Public Schools; Charter Schools

The bid* opening process is a necessary role of being the School Business Administrator/Board Secretary (“SBA”) in the State of New Jersey. It is not an exciting process, yet competitive bidding and the bid opening process are the cornerstones of public school purchasing. This guidance on the bid opening process will hopefully be of assistance to the novice and most experienced SBA.

Activities for Bidding; the Beginning

The bid opening process does not begin on the day of the bid opening. It begins with good planning by the SBA to ensure that the bid opening process is in compliance with the New Jersey Public School Contracts Law.

Authority to Bid—School Business Administrator/Board Secretary

The law is quite clear! Only one person in the school district is permitted by law to have the authority over the bid process. Pursuant to N.J.S.A. 18A:18A-2 (b), the authority lies with the Purchasing Agent. The Purchasing Agent defined by law is the School Business Administrator/Board Secretary. (“SBA”)

Setting the Bid Date and Time—Bid Acceptance Dates

Careful attention should be paid when the SBA sets the bid opening date and time. Pursuant to N.J.S.A. 18A:18A-21 (a), bids are not permitted to be received on a Monday, Federal or State holiday or the day after a Federal or State holiday. (Bid Acceptance Dates) Note: Bids for Student Transportation services may be received on a Monday, holiday or day after a holiday—NJDLGS Local Finance Notice 2013-1.

Setting the Bid Date and Time—Issuance of Addenda

The experienced SBA knows quite well that some bids may require the issuance of addenda to the bid specifications. Careful attention should be paid when setting up the bid calendar to permit time to issue official addenda in compliance with N.J.S.A. 18A:18A-21 (c).

Competitive Contracting Opening Process*

Note: For all intents and purposes, when conducting the Competitive Contracting opening process, School Business Administrators should adhere to the guidance provided and to the procedures as outlined N.J.S.A. 18A:18A-4.1 et seq. and N.J.A.C. 5:34-4.1 et seq.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

When issuing addenda, the SBA is reminded that all potential bidders are to receive the addenda issued by the SBA, at least seven (7) days prior to the advertised date and time, not including Saturdays, Sundays and holidays. For bids other than construction bids, the SBA shall also provide Public Notice in the legal newspaper, also seven (7) days prior to the bid opening, not including Saturdays, Sundays and holidays. Failure to comply with the seven (7) day law will mandate that the bid be cancelled and rebid.

A gentle reminder to all SBA’s: The issuance of addenda is a task to be completed by the Office of the School Business Administrator/Board Secretary (SBA), and not an architect or an engineer. Addenda may only be issued by certified mail, certified fax or delivery service. Issuance of addenda via e-mail is not in compliance with N.J.S.A. 18A:18A-21 (c).

Preparation of the Bid Advertisement—SBA Responsibility

In accordance with N.J.S.A. 18A:18A-2 (b), it is the responsibility of the SBA to prepare all bid advertisements. Architects, engineers or other consultants may assist in the preparation of the bid advertisement, however it is the ultimate responsibility of the SBA for the completion of the final advertisement.

Preparation of the Bid Advertisement—Counting the Days—Ten (10) Days

All advertisements for bids shall be published in an official newspaper sufficiently in advance of the bid date to promote competitive bidding, but in no event less than ten (10) days prior to the bid date pursuant to N.J.S.A. 18A:18A-21 (a). Competitive Contracting proposals require a minimum of twenty (20) days prior to the proposal opening pursuant to N.J.S.A. 18A:18A-4.5 (a).

Preparation of a Bid—Assigning a Bid Number

The SBA should assign a bid number for every bid and for every Competitive Contracting proposal. Example--#01-1617 or #1617-01 or similar variations.

(1) Note: Advertising, Receiving and Opening of Bids—Exclusivity of SBA to Perform Duties

The author is aware of N.J.A.C. 5:34-9.5 (e) which permits a “duly recognized designee” to act on behalf and be responsible to the SBA for actions relating to purchasing. It is suggested that the SBA seek guidance from the Board Attorney whether the “designee” may advertise, receive and open bids for the school district.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

Advertising for the Bid
Not to be redundant, however, the law is quite clear, the authority to submit the bid advertisement to the legal newspaper, lies with the SBA and not an architect, engineer or other consultant. Reference-N.J.S.A. 18A:18A-2 (b).

Note: Advertising, Receiving and Opening of Bids—Exclusivity of SBA to Perform Duties
The author is aware of N.J.A.C. 5:34-9.5 (e) which permits a “duly recognized designee” to act on behalf and be responsible to the SBA for actions relating to purchasing. It is suggested that the SBA seek guidance from the Board Attorney whether the “designee” may advertise, receive and open bids for the school district.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

Things Go Wrong!—Cancellation/Postponement of Bids

Sometimes things go wrong and a bid has to be cancelled or a bid has to be postponed. Boards of education through the office of the SBA, may cancel or postpone a bid pursuant to N.J.A.C. 5:34-9.3 (a) (b).

Canceling a Bid—N.J.A.C. 5:34-9.3 (a)
A board may cancel a bid if it cannot meet the requirements of N.J.S.A. 18A:18A-21 as it pertains to the following:

- Ten (10) Day Requirement—Bid Receipt Date
- Seven (7) Day Requirement—Addendum Notification Date
- Bid Acceptance Date—Receiving Bids on Improper Days

SBA’s are to carefully read N.J.A.C. 5:34-9.3 (a) as to fully understand the list of activities that must be completed when canceling a bid.

It is suggested that if a bid is cancelled, a board resolution be adopted acknowledging the cancellation. The new bid must meet the ten (10) day requirement and it should be given a new bid number.

Postponing a Bid—N.J.A.C. 5:34-9.3 (b)
A bid opening may be postponed due to unforeseen circumstances that would affect or prohibit the opening of the bid. SBA’s are to familiarize themselves with the procedures to follow when postponing a bid.

It is further suggested that the board attorney be contacted prior to canceling or postponing a bid.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

The Receipt of Bids

New Jersey state law is quite clear who is authorized to receive bids. The only person to receive bids on behalf of the board of education is the School Business Administrator*. Ref. N.J.S.A. 18A:18A-2 (b) and N.J.S.A. 18A:18A-21 (b).

Who Receives Bids?
The School Business Administrator, by law, is the only person to receive bids for the board of education. Directions to bidders to submit bids to the board of education should be as follows

Full Name of SBA
School Business Administrator/Board Secretary

No other school official should be named as the receiver of bids on behalf of the board of education.*

How are Bids to be Received—Methods of Receipt
Bids, which are to be addressed to the SBA, may be delivered to the board of education by mail, messenger service, and/or hand delivered prior to the bid opening date and time. The New Jersey Public School Contracts Law requires bids to be sealed and then the bids shall be publically unsealed at the bid opening. It is therefore recommended not to receive bids via e-mail.

How are Bids to be Received—Segregation of Duties
It is suggested that all bids be personally received by some person other than the SBA. This good business practice would be considered “segregation of duties” something that auditors would recommend. All bids received should be recorded upon receipt (date and time) and be kept in a locked cabinet until the bid opening date.

*Pursuant to N.J.S.A. 18A:18A-2 (b), the board of education may delegate this authority if there is no School Business Administrator or Board Secretary. Also, New Jersey Administrative Code for Student Transportation bid openings, permits the naming of another person to receive and open student transportation bids.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

Attending a Bid Opening—Part I
The Uniqueness of Your District

There are bidders who may want to submit their bids in person prior to the bid opening. This is most common when there are public works or construction bids. To ensure that bidders are able to attend the bid opening in a timely fashion, it is recommended that a section in the bid specification package be set aside to address the following unique characteristics of your school district:

Parking; Bid Opening Site
If parking is at a premium by your area, let the bidders know they will have to walk a distance to get to the building where the bid opening will take place. If there is a district parking lot, the bidders should be advised of the area of the lot that is available for them to park.

Entrance to the Building
Let the bidder know what entrance is available for a bidder to use. Describe the entrance in detail if possible. (Photo of the entrance in bid package)

Security Clearance
Bidders should be apprised of any security clearance process they will encounter, which may add time to the actual admission to the building.

Elevator/Stairs
If your bid opening room or office requires bidders to use the stairs or an elevator, highlight it in your bid specifications.

Signs to the Bid Opening Location
You do not want bidders to roam the halls of your building. Every effort should be made to have signs placed in strategic locations directing bidders to the bid opening room or office.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

Attending a Bid Opening—Part II
The Bid Opening Room

The bid opening room or meeting area should be scheduled and ready for your use as the bid opening site. The room should be of an adequate in size to permit a large number of people to attend. A sign should be placed on the front door of the bid opening room advising those of the bid opening location. The room should have at a minimum:

Main Table for the Bid Opening
This table should be large enough for the main participants of a bid opening which include the SBA, a witness, other school officials and an architect when applicable.

Chairs/Tables for the Bidders
Every effort should be made to have chairs and tables available for bidders. This may be difficult depending on the size of the room.

Sound System/Microphone
Depending on the size of the room and the number of attendees, it may be advantageous to have a sound system for your use.

Tape Recording/Video Recording
There are some districts that use a tape recorder and even video tape the bid opening. Please advise all in attendance if this is the case. Yes, there are bid openings on You Tube! Please check with your board attorney on these practices.

Final note: Be early to setup the bid opening room
It is suggested that you arrive 10 -15 minutes early to the bid opening room as to ensure it is ready for a bid opening.

There is another reason to arrive early to the bid opening room and that is

“Never be late to your own bid opening!”
The Bid Opening Process
New Jersey Public Schools; Charter Schools

The Bid Opening—Being Prepared

The bid opening should be a seamless and flawless operation. Those in attendance do not see the day to day work you do as a SBA, however, they will in a few minutes, size you up on what type of operation you run, depending on the bid opening process you conduct. You have to be prepared for the actual bid opening.

Tools for the Bid Opening
It is suggested that your office prepares an actual bid opening tool box that can be brought to each bid opening. The items in the tool box at a minimum should be:

- Pens or pencils
- Paper clips—large
- Scissors
- Letter opener
- Post Its
- Band Aids for paper cuts
- Bottled Water for the SBA
- Gavel
- Stapler and staples
- Alarm Clock—to wake you up, the bid opening process is very boring!

Waste Basket
It is important to ensure that there is a large waste basket by the SBA. Opening a large number of bids generates a lot of paper waste. The unwanted paper and envelopes should not be put in a large unsightly pile, rather they should be put in a large waste basket available for recycling at a later time.

Attendance Sheet
A professionally designed attendance sheet should be made available for people to sign in, including the participants of the bid opening. Please avoid using a yellow legal pad.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

Tape Recorder/Video Recording
If it is the practice of your district to video tape or have an audio tape of your bid opening, then have it setup prior to the bid opening. Advise all in attendance that this is the practice of the district. Please check with your board attorney on these practices.

It’s Time to Open the Bids! How do you know?
The law requires the SBA to advertise the date and time of the bid opening. The law further notes that no bids may be received after the advertised bid date and time. Therefore all SBA’s should be made aware of the following:

- Never be late to your own bid opening
- Always start your bid opening on time

Whose time do you use? Is it the clock on the wall? Is it your watch or a bidder’s watch? Technology appears to have provided the answer by having the cell phone and the smart phone equipped with a time application. Advise all in attendance that you will be using the time application on your smart phone as the official time. All of the bidders will probably take their phones out and for the last minute prior to the advertised time, people will stare at their phones.

Do you have all of the bids? Last Minute Check!
An office staff member should ensure that you have all of the bids mailed or sent to you ready for the bid opening. The staff member should double check the following:

- Bid Cabinet File
- Mailroom
- Receptionist—front door
- Receptionist—Business Office

You do not want bids to be “floating around” the district. The bids should be in your hands ready for the bid opening.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

The Actual Bid Opening

The SBA is now prepared to begin the process of physically opening the bids received. Some guidance for this process is provided below.

Opening Announcement—School Business Administrator
It is suggested that the SBA take full control over the bid opening process. At the advertised date and time, the SBA would announce that the bid opening process will begin and that he/she will accept no further bids. It is if further suggested that all bids be opened in alphabetical order by vendor name. Finally, it should be announced that all bids will be available for public inspection at the completion of the bid opening process.

Who Opens the Bids?—School Business Administrator
The law is quite clear on who opens the bids. Pursuant to N.J.S.A. 18A:18A-21 (b), the School Business Administrator shall “unseal” the bids.

What Should be Read at a Bid Opening?
The law clearly states that the SBA shall “publically announce the contents” of each bid. It is suggested that the following should be read in the record of the bid opening:

- Bid prices from each bidder
- Documents submitted from each bidder

Recording of Bid Prices and Documents—Formal Bid Check List Document
The school employee who has been designated as the witness for the bid opening should properly record all bid prices submitted (if practicable) and also record all documents submitted by each bidder. This record of prices and documents should be made on a formal Bid Check List Document as prepared by the School Business Administrator.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

Offer No Opinions!—Contact the Board Attorney
There will be times when certain required and requested bid documents were not submitted by a particular bidder. Perhaps the documents that were submitted, were not signed or not completed properly. You can be sure the competition at the bid opening will quickly point this out to you.

When it appears that there is a deficiency in a particular vendor’s bid or if you are questioned by another bidder, do not offer an opinion. Let the public know that you will contact the Board Attorney, and it will be his responsibility to offer an opinion if there is a deficiency or material defect in a particular bid.

Let the Public See the Bids
At the conclusion of a bid opening, invite the public to review the bids—one bid at a time. This measure is a step in developing trust with all vendors. You have nothing to hide, this is a public process. Keep a careful eye on each bid document as not to permit any manipulation to the documents after the fact.

Conclusion of Bid Opening
Thank the bidders for submitting a bid and for attending the bid opening meeting. Let them know the bids will go through the evaluation process and a recommendation for award will be presented to the board of education at its next public meeting. You may want to provide that board of education meeting date to the bidders who are present.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

Receipt of Bids After the Bid Opening
This Might Happen to You!

Guiding Principle of Receiving Bids
The guiding principle of receiving bids is spelled out in N.J.S.A. 18A:18A-21 (b):

“*No bids shall be received after the time designated in the advertisement.*”

However, there may be times where bids are submitted after the bid date and time. The SBA has to be prepared to handle such situations within the confines of the law. I provide guidance on three (3) situations that may happen to you as it pertains to receipt of bids after the bid date and time.

**Situation #1—Bid Hand Delivered at the Bid Opening After the Bid Time.**

This is probably going to be your common situation of having a bid submitted to you after the bid date and time. The bidder will try to submit the bid to you during the bid opening process, armed with a litany of excuses of why he was late to the bid opening.

Your response is to **politely** refuse to accept the bid. You have no choice in the matter as no bids shall be received after the time designated in the advertisement. Of all of the situations, this one will test your character, as you have to tell a person face to face that you are unable to accept their bid. Be prepared for some emotional reactions from the bidder.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

Situation #2—Bid is Received by Mail/Delivery Services After the Bid Date/Time.

From time to time this situation may occur. Bidders may not plan correctly and rely on a third party service to deliver their bids. If you receive a bid delivered through the mail or a delivery service after the advertised bid date and time please proceed to do the following:

- Don’t open the bid!
- Record the date and time you received the bid on the front the bid envelope.
- Make a copy of the front of the bid envelope and then put the copy in the bid folder.
- Mail the unopened bid back to the vendor with a letter of explanation. (You may want to call the vendor if you so desire.)

Situation #3—Bid Has Been Received by the Board but not by You!

There may be a time where a receptionist/employee received the bid prior to the bid date and time, but for some reason, you the SBA did not receive the bid until after the bid opening process was completed. This happened to me once in Passaic.

What should you do if this happens to you?

Step 1—Contact Your Board Attorney

Step 2—Take up prayer

Years ago in Passaic, we had a bid opening where five (5) vendors showed up and submitted bids. They remained for the entire bid opening to record the results.
After the bid opening, I went back to my office, and guess what was on my desk? Another bid! The downstairs’ substitute receptionist received the bid an hour before the advertised time of the bid, but failed to contact me.

I contacted my Board Attorney at that time, and he advised me to go to the Board Rooms with my witness and open up the newly found bid. He then advised me to take up prayer.

Why prayer? What would happen if the newly found bid was the lowest bid? Would the other bidders who remained for the entire bid process believe me, or would they think something was amiss?

I opened up the bid, and divine intervention prevailed. It was not the lowest bid.

**Seamless and Flawless Operation—The Bid Opening Process!**

Once again, the bid opening should be a seamless and flawless operation. Those in attendance do not see the day to day work you do as a SBA, however, they will in a few minutes, size you up on what type of operation you run, depending on the bid opening process you conduct. You have to be prepared for the actual bid opening.
The Bid Opening Process
New Jersey Public Schools; Charter Schools

About the Author
James Shoop is a retired School Business Administrator having worked for the Passaic (NJ) City Board of Education for forty-two (42) years, twenty-five (25) years in the Business Office. Mr. Shoop makes presentations on Public School Purchasing for the following:

- New Jersey Association of School Business Officials (NJASBO)
- Center for Government Studies—Rutgers University
- New Jersey School Boards Association (NJSBA)
- Government Purchasing Association of New Jersey (GPANJ)
- New Jersey Charter School Association (NJCSA)

Mr. Shoop presently has a consulting business that assists public school districts and charter schools in New Jersey. He may be reached at

Shoop18A18A@gmail.com

Note of Thanks
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Stacey Robinson  Willingboro Public Schools
Danielle Tikijian  Bergen County Technical Schools
Neville Williams  Paterson Public Schools

A special thanks to Lydia Arce for all her years of support.

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Cooperative Purchasing Systems

James Shoop, March 2019
Cooperative Purchasing Systems

Boards of education may join a cooperative purchasing system authorized by the New Jersey Division of Local Government Services.

A cooperative purchasing or joint purchasing system means a purchasing system in which the lead agency serves as the purchasing agent for the membership of the system with all of the duties and responsibilities attendant thereto. The lead agency advertises for bids and awards a single contract to a vendor providing for the payment to the contractor for its own needs and for the needs of the participating registered members of the system.

The lead agency is the contracting unit which is responsible for the management of the cooperative purchasing system. Recognized contracting units for purposes of public and nonpublic school districts are, but not limited to:

- Boards of Education
- Educational Services Commissions
- Regional Services Commissions
- County Special Services Districts
- Other recognized entities; e.g. NJSBA TEC Program

Resolution for Membership

To apply for membership with an authorized cooperative purchasing entity, the board of education shall pass a resolution and execute a formal agreement with the lead agency. The board of education is bound by the terms of the agreement and N.J.A.C. 5:34-7.1 et seq.

Ref. N.J.A.C. 5:34-1.2-Definitions; N.J.A.C. 5:34-7.4 (a); N.J.A.C. 5:34-7.6 (a).

Award of Contracts—Cooperative Purchasing Contracting Unit (Lead Agency)

The cooperative purchasing contracting unit (lead agency), procures goods and services for its use and for use by its membership. The lead agency awards the contracts through board resolutions.
Award of Contracts—Boards of Education
It is highly recommended when using a contractor or vendor procured by a lead agency, boards of education also award the contract by board resolution when the contract exceeds the bid threshold.

Procurement Documents—Cooperative Purchasing Contracting Units (Lead Agency)
The lead agency, in procuring goods and services, requires from vendors and contractors certain procurement documents such as, but not limited to:

- Affirmative Action Certificate
- Business Registration Certificate
- Chapter 271 Political Contribution Form
- Iran; Disclosure of Investment Activities Form
- Non-collusion Affidavit
- Statement of Ownership (Stockholder’s Disclosure)
- Insurance Certificate

Procurement Documents—Boards of Education
It is highly recommended when using a contractor or vendor procured by a lead agency, boards of education maintain on file, the aforementioned documents and other documents that may be needed from vendors and contractors.

Procurement Documents—Contractors—Public Works Contracts
It is highly recommended the following documents be on file with the board of education when using a cooperative purchasing vendor for public works contracts.

- Notice of Classification—public work exceeding $20,000
- Total Amount of Uncompleted Contracts—public work exceeding $20,000
- Contractor Registration Certificate—Public Work Exceeding $2,000
- Affirmative Action Form AA-201—Send to Contractor
- Prevailing Wages Notification—Send to Contractor
- Insurance Certificate
**System Identification Numbers**

The contracting agent is required to put the Cooperative System Identification Number on all contracts, purchase orders, resolutions, etc.

Reference—N.J.A.C. 5:34-7.4 (b) (9), 7.11 (c) and 7.29 (a)

<table>
<thead>
<tr>
<th>System ID Number</th>
<th>Approved Cooperative Purchasing System</th>
</tr>
</thead>
<tbody>
<tr>
<td>1NJCP</td>
<td></td>
</tr>
<tr>
<td>26EDCPS</td>
<td></td>
</tr>
<tr>
<td>65MCESCCPS</td>
<td></td>
</tr>
<tr>
<td>34HUNCCP</td>
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<tr>
<td>259GSCPS</td>
<td></td>
</tr>
<tr>
<td>E8801-ACESCPS</td>
<td></td>
</tr>
</tbody>
</table>
Sample Resolution for Membership

Approval of Membership—Cooperative Purchasing Agency—ESC of New Jersey

Approval is granted, pursuant to N.J.A.C. 5:34-7.6 (a), for the Perth Amboy Board of Education to apply for membership in the Cooperative Pricing System of the Educational Services Commission of New Jersey (ESCNJ) of Piscataway, NJ. The district will be able to purchase goods and services from the vendors participating in the cooperative pricing system. When using vendors from ESC of NJ, the approved New Jersey system identification number, #65MCESCCPS, shall appear on all board resolutions and purchase orders.
Sample Resolution Awarding Contract

Resolution Awarding Contract—Plumbing Services—As Needed Basis from Magic Touch Construction Co., Keyport NJ 07735

The Perth Amboy Board of Education, based upon the recommendation of the Superintendent of Schools, hereby approves the award of a contract for plumbing services, on an “as needed” basis to

Magic Touch Construction Co.
Keyport, NJ 07735

The award of contract is based upon the following pricing as obtained through the competitive Bid #ESCNJ 16/17-19, as issued by the Educational Services Commission (ESC) of New Jersey, of Piscataway, NJ, an authorized cooperative purchasing agency in the State of New Jersey. (#65MCESCCPS)

Bid Pricing—for Magic Touch Construction Bid #ESCNJ 16/17-19

<table>
<thead>
<tr>
<th>Worker</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Journeyman</td>
<td>$81.18 per hour</td>
</tr>
<tr>
<td>Apprentice</td>
<td>$38.67 per hour</td>
</tr>
<tr>
<td>Foreman</td>
<td>$84.41 per hour</td>
</tr>
</tbody>
</table>

Parts and Equipment-Invoice Rate plus ten per cent (10%) markup.

It is estimated, based upon historical spending trends that the purchase order with Magic Touch Construction Co., will not exceed $___________

The term of contract is from July 1, 2018 through June 30, 2019.
PUBLIC NOTICE

AWARD OF CONTRACT(S)

Prepared by James Shoop, March 2019
PUBLIC NOTICE

AWARD OF CONTRACT(S)

Publication of Contract Award Notices

In accordance with the Public School Contracts Law, school districts have to place a “notice of award” in an official newspaper for the award of certain contracts. They are:

<table>
<thead>
<tr>
<th>Contract Award</th>
<th>Citation</th>
</tr>
</thead>
</table>

*The district shall publish a notice of award for contracts that exceed the bid threshold. Reference—Local Finance Notice 2010-3 Letter A.

Deadline for Publication—Twenty (20) Days
The district shall publish a notice of award no later than twenty (20) days after the passage of the resolution awarding the contract. Reference—N.J.A.C. 5:34-9.5 (d).

Inclusion of Services—Meeting the Definition of Professional Services
Purchasing agents are to review the definition of professional services to ensure the services listed in the public notice are indeed professional services.
Advertisement Requirements

- Name of Vendor
- Nature of the contract
- Duration of the contract (term of contract)
- Description of services
- Amount of the contract (a)
- Statement that the contract is on file and available for public inspection

Amount of Contract—Total Amount of Contract; **No Hourly Rate**
The contract amount placed in the public notice shall be for the total amount of the contract. Hourly rate amounts are not acceptable. Whatever the total amount of the contract is on the purchase order has to match the total amount in the board resolution and in the public notice advertisement. Reference LFN 2010-3 Letter A.

**Public Notice**
ANYTOWN Board of Education
ANYTOWN, New Jersey

Award of Contracts

<table>
<thead>
<tr>
<th>Name</th>
<th>Description Services</th>
<th>Est. Amt.</th>
<th>Term</th>
<th>Procurement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immedicenter</td>
<td>Medical Inspector</td>
<td>$60,000</td>
<td>July 1, 2018- June 30, 2019</td>
<td>RFP 21-19</td>
</tr>
<tr>
<td>Clifton, NJ</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greenhouse Therapy</td>
<td>OT/PT Services</td>
<td>$100,000</td>
<td>July 1, 2018- June 30, 2019</td>
<td>CC 04-19</td>
</tr>
<tr>
<td>Passaic, NJ</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brown &amp; Brown Metro</td>
<td>Broker of Record Health Benefits</td>
<td>$101,000</td>
<td>July 1, 2018- June 30, 2019</td>
<td>EUS 01-1</td>
</tr>
<tr>
<td>Florham Park, NJ</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The resolutions and contracts are on file in the Business Office and are available for public inspection.
Board of Education Actions (Public School Purchasing)

Prepared by James Shoop, March 2019
Board of Education Actions
(Public School Purchasing)

Voting
The Board of Education may adopt a resolution by majority vote of those present and voting, except as otherwise noted by law.

Authorization to Purchase—Sample Annual Resolution
The Board of Education, pursuant to N.J.S.A. 18A:18A-3 (a), designates _____________________, School Business Administrator/Board Secretary, as the Purchasing Agent for the Board of Education and authorizes her/him to award contracts, in full accordance with the law, for purchases that do not exceed in the aggregate in a contract year the total sum of $40,000.00 (bid threshold) without public advertising for bids. Furthermore, ______________ is authorized to solicit competitive quotations pursuant to N.J.S.A. 18A:18A-37 (a) and to award contracts pursuant to N.J.S.A. 18A:18A-37 (c). In absence or unavailability of the Purchasing Agent, the board hereby authorizes NAME OF PERSON, TITLE, to award contracts pursuant to N.J.S.A. 18A:18A-3 (a).

Award of Contract – Lowest Responsible Bidder

Contracts Exceeding Bid Threshold
Any contract that exceeds the bid threshold shall be awarded by board resolution even if they are exempt from bidding. N.J.S.A. 18A:18A-5

Exceptions:
• Purchase of textbooks, N.J.S.A. 18A:18A-4 (d)
• Emergency contracts awarded by the Purchasing Agent, N.J.S.A. 18A:18A-7
• Contracts exceeding the bid threshold awarded to State Contract vendors, after initial approval of the board of education. N.J.S.A. 18A:18A-10 (a) and N.J.A.C. 5:34-7.29 (c).
Board of Education Actions  
(Public School Purchasing)

**Student Transportation Contracts**  
*Lowest Responsible Bidder*  
All student transportation contracts that exceed the bid threshold shall be awarded to the lowest responsible bidder. N.J.S.A. 18A:39-3 (a)

**Quoted Contracts**  
Contracts for unanticipated transportation, procured through the quotation process, shall be awarded by board resolution. N.J.A.C. 6A:27-9.12 (c).

**Competitive Contracting Process**  
Contracts procured through the Competitive Contracting process are to be awarded by board resolution. N.J.S.A. 18A:18A-4.5 (d), (e)

**Professional Services Contract**  
Any professional service contract that exceeds the bid threshold must be awarded by board resolution. Professional services contracts may not exceed 12 months. N.J.S.A. 18A:18A-5 (a).

**EUS Contracts for Insurance**  
Although not required by law, it is strongly recommend, that all contracts less than the bid threshold, for Insurance or Insurance Broker of Record Services procured through the EUS process, be awarded by board resolution. All contracts more than the bid threshold shall be awarded by board resolution. N.J.S.A. 18A:18A-5

**Equal Prices**  
If two or more vendors submit the same equal lowest price, then the Board must give a reason why they chose one vendor and not the other. N.J.S.A. 18A:18A-37(d)
Board of Education Actions
(Public School Purchasing)

Renewal of Contracts -- Services Only
Contracts for services other than professional services, may be renewed by board resolution, as provided by law.

Authorizations
Board resolutions are required for the following:

- Initiate the Competitive Contracting process—N.J.S.A. 18A:18a-4.3 (a)
- Procurement of a Concession—N.J.A.C. 5:34-9.4 (a) (2)
- Authorizing Student Transportation bids—N.J.A.C. 6A:27-9.2 (c)

National Cooperative Contracts
It is recommended that the board adopt the following resolutions pertaining to procuring goods and services from vendors who were awarded contracts through a national cooperative.

- Adopt a resolution for membership in the National Cooperative; and
- Adopt a resolution awarding the contract to the National Cooperative vendor.

State and Local Cooperative Contracts
It is recommended that the board adopt the following resolutions pertaining to procuring goods and services from vendors who were awarded contracts through a state or local cooperative purchasing system.

- Adopt a resolution for membership in the cooperative; and
- Adopt a resolution awarding the contract to the Cooperative vendor.
Board of Education Actions
(Public School Purchasing)

Rejection of Individual Bids
A board of education may reject individual bids (upon attorney guidance) for being non-responsive. N.J.S.A. 18A:18A-2 (y)

Rejection of All Bids
A board of education may reject all bids (Competitive Contracting proposals) for any of the following reasons:

a. The lowest bid substantially exceeds the cost estimates for the goods or services;

b. The lowest bid substantially exceeds the board of education's appropriation for the goods or services;

c. The board of education decides to abandon the project for provision or performance of the goods or services;

d. The board of education wants to substantially revise the specifications for the goods or services;

e. The purposes or provisions or both of N.J.S.18A:18A-1 et seq. are being violated; and

f. The board of education decides to use the State authorized contract pursuant to N.J.S.A 18A:18A-10
Awarding Contracts—Less than Ten (10%) of State Contract
A board of education may award a contract upon solicitation of three quotation for contracts issued by the State of New Jersey, to the vendor who submits the lowest quotation which is at least 10% below the state contract price. **Two-thirds (2/3) affirmative votes of authorized membership needed.**

Vehicles for Board Use
Contracts for the purchase, lease or lease purchase for any vehicle for board use shall be awarded by board resolution. **A majority affirmative vote of the full membership of the board is required.**
N.J.A.C. 6A:23A-6.12

Approval of Change Orders—N.J.A.C. 5:30-11.1 et seq.
The board of education shall approve all change orders pursuant to N.J.A.C 5:30-11.1 et seq.

Approval of Negotiated Vendor Contracts
A board of education may award negotiate and award a contract when on two occasions, no bids were received, or bids were determined not to be reasonable in price. **Two-thirds (2/3) affirmative votes of authorized membership needed.**
RENEWAL OF CONTRACTS

Guidance

Paragraph after the letter “o”

Any contract for services, other than professional services, the statutory length of which contract is for three years or less, may include provisions for no more than one two-year, or two one-year, extensions, subject to the following limitations:

a. the contract shall be awarded by resolution of the board of education upon a finding by the board of education that the services are being performed in an effective and efficient manner;

b. no such contract shall be extended so that it runs for more than a total of five consecutive years;

c. any price change included as part of an extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and

d. the terms and conditions of the contract remain substantially the same.

Prepared by James Shoop, March 2019
Contract Renewal Procedures

A. School Business Administrator Review
The School Business Administrator shall identify those contracted services, pursuant to N.J.S.A 18A:18A-42, that are eligible for extension or renewal.

B. Contacting Appropriate District Administrator
The School Business Administrator shall contact the appropriate district administrator and inform the administrator of contracts eligible for extensions or renewals.

- See sample Memorandum to District Administrator
- See sample Chart for Contract Renewals
- See sample Vendor/Contractor Evaluation and Recommendation Form

The SBA will request input from the administrator whether a contracted service vendor/contractor should have their contract considered for renewal by the board of education.

C. Evaluation and Recommendation Form
The district administrator (e.g. Director of Facilities) who is recommending a contract to be considered for renewal, shall complete the Chart of Contract Renewals and a Vendor/Contractor Evaluation and Recommendation Form for each contracted service vendor/contractor.

- See sample Chart for Contract Renewals
- See sample Vendor/Contractor Evaluation & Recommendation Form

The forms are to be submitted to the School Business Administrator.
D. Letter to Contracted Service Vendor/Contractor
The School Business Administrator shall prepare and send a letter to each vendor recommended for a renewal of contract. The letter informs the vendor of the school district’s interest of a possible renewal and asks the vendor to respond if there is an interest to renew with the district.

- See sample Letter to Vendor

E. Board Resolution for Renewal of Contract
The resolution for consideration of a contract renewal shall be prepared in the format normally used by the district. It is recommended the following highlighted information be used in all resolutions:

- See sample Board Resolution- with highlighted items

F. Documents from Vendor/Contractor
Prior to award of contract and/or issuing of a purchase order the School Business Administrator shall possess the following documents from each vendor being recommended for renewal of contract:

- Affirmative Action Certificate
- Business Registration Certificate
- Iran Disclosure Form—required by law
- Insurance Certificate Updated—when applicable
- Contractor’s Registration Certificate—when applicable

The district should also confirm with the contractor of Prevailing Wages information, again when applicable.

G. After the Board Meeting
The School Business Administrator shall prepare and send a letter to the vendor informing him of the renewal of contract. A purchase order shall accompany the letter. The appropriate administrator and board attorney shall be copied on the letter.
ANYTOWN Board of Education
Office of the School Business Administrator

Memorandum

To: ________________________________________________

From: Name, School Business Administrator/Board Secretary

Date: ________________________________________________

Re: Renewal of Contracted Services

School districts, pursuant to N.J.S.A. 18A:18A-42, may renew contracts for contracted services, other than professional services contracts. I am providing to you a list of contracted services vendors that are eligible for renewal this upcoming year.

Chart for Contract Renewals
Please review the list to determine whether you want to recommend a renewal of contract for each vendor or whether you would like my office to solicit bids for the contracted services.

Vendor/Contractor Evaluation and Recommendation Form
If you are recommending any vendors for renewal of contract, you are to complete the Vendor/Contractor Evaluation and Recommendation Form for each contracted service vendor/contractor. Your recommendation on the form confirms the vendor has performed their services to the board in an “effective and efficient manner” and it would be in the board’s best interests to renew the vendor contract.

You have an option to recommend a one (1) year renewal or a two (2) year renewal. May I suggest a two (2) year renewal option?

Please submit the attached forms to my office no later than

Day, Date, Month Year
ANYTOWN BOARD OF EDUCATION  
Office of the School Business Administrator  

RENEWAL OF CONTRACTS  
Contracted Services  

Department ____________________  
Administrator ____________________  
Date _________________________  
Signature ______________________  

<table>
<thead>
<tr>
<th>Company/Vendor</th>
<th>Service</th>
<th>Bid #</th>
<th>Renew</th>
<th>Term</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Yes</td>
<td>1 yr.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No</td>
<td>2 yrs.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Yes</td>
<td>1 yr.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No</td>
<td>2 yrs.</td>
</tr>
<tr>
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<td>Yes</td>
<td>1 yr.</td>
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<td></td>
<td></td>
<td></td>
<td>No</td>
<td>2 yrs.</td>
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<td>1 yr.</td>
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<td>Yes</td>
<td>1 yr.</td>
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<td>2 yrs.</td>
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<tr>
<td></td>
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<td>1 yr.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No</td>
<td>2 yrs.</td>
</tr>
</tbody>
</table>

Please submit this form, duly signed to  
__________________ School Business Administrator/Board Secretary  

No later than _________________________ 12:00 Noon  

_________________________________
ANYTOWN BOARD OF EDUCATION
RENEWAL OF CONTRACTS FOR SERVICES
VENDOR/CONTRACTOR EVALUATION & RECOMMENDATION

Department ____________________  Administrator ____________________

Name of Vendor/Contractor _______________________________________

Services Provided ________________________________________________

Evaluation of Vendor/Contractor—Circle One for Each Listing

A. Quality of Work  Poor  Satisfactory  Excellent
B. Scheduling; Adherence  Poor  Satisfactory  Excellent
C. Safety, Housekeeping  Poor  Satisfactory  Excellent
D. Worker Relationships  Poor  Satisfactory  Excellent
E. Paperwork Processing  Poor  Satisfactory  Excellent
F. Management Activities  Poor  Satisfactory  Excellent
G. Other _______________  Poor  Satisfactory  Excellent

Comments _______________________________________________________

RECOMMENDATION—CHECK ONE!

_________ Recommendation of Administrator—Contract Renewal

I certify, based upon my evaluation, that above named vendor/contractor has performed services in an “effective and efficient manner” for the ANYTOWN Board of Education, and I hereby recommend the vendor/contractor be considered for a contract renewal.

_________ Recommendation of Administrator—Advertise for Bid/RFP

It is my recommendation that the board of education, in lieu of renewing the contract with the named contractor/vendor, advertise for bids/RFP for the above services.

Certification of Administrator

__________________________________________  __________________________
Signature of Administrator                      Date

Submission of Recommendation

Please submit this signed form to the Office of the School Business Administrator no later than

Day, Month Date, Year
Passaic County Technical Institute
Office of the School Business Administrator
45 Reinhardt Road
Wayne, NJ 07470

Sample Letter

Jay Hill Repairs
90 Clinton Road
Fairfield, NJ 07004

Sample Letter

Date

Re: Renewal of Contract – Repair/Service Kitchen Equipment—Two Year (2) Renewal

At the request of Mr. Matthew Percelli, Assistant Director of Food Services, Passaic County Technical Institute has expressed interest in the renewal of your contract with PCTI for the following school years:

July 1, 2018, through June 30, 2019
July 1, 2019 through June 30, 2020

The renewal of contract would be in accordance with the terms and conditions of Bid #18-02 and at the current contract prices as noted below:

| Bid Hourly Rate Labor | $98.00 per hour |
| Invoice Markup Rate    | Twelve (12%) Per cent |

If you would like your contract considered for renewal at the current contract price, please send me a letter requesting the renewal.

Your letter must be received by my office no later than

Weekday, Month 00, 2000
12:00 NOON
If I do not hear from you by the above date and time, I will have no other recourse than to seek competitive prices for this contract.

All renewal of contracts are subject to Board of Education approval. Contracts for renewal will be considered at the May or June board meeting. Multiyear contracts are subject to the availability of funds to meet the extended obligation.

You may fax your letter to, or email the letter to (with the original to follow) to

Rita Gernant  
Confidential Executive Secretary  
Business Office  
Passaic County Technical Institute  
45 Reinhardt Road  
Wayne, NJ 07470  
Fax 973-389-4399

I look forward to the continuance of the relationship with your company and the Passaic County Technical Institute.

Yours truly,

Mr. Richard Giglio  
School Business Administrator,

c. Matthew Percelli, Assistant Director of Food Services
Sample WHEREAS Board Resolution

Resolution to Renew Contract—Repair/Services of Kitchen Equipment—Jay Hill Repairs

WHEREAS, the Food Services Department requires a contracted vendor to be on call to repair and service kitchen equipment; and

WHEREAS, the Board of Education awarded a contract for the 2017-2018 school year to Jay Hill Repairs of Fairfield, New Jersey to provide repair/service of the kitchen equipment; and

WHEREAS, the Assistant Food Services Director has confirmed that Jay Hill Repairs has provided services to the board in an effective and efficient manner; and

WHEREAS, the Board of Education, pursuant to N.J.S.A. 18A:18A-42, may award a contract renewal of services for a period not to exceed two years;

NOW THEREFORE BE IT RESOLVED, the Passaic County Technical Institute Board of Education, hereby awards a two (2) year renewal contract to Jay Hill Repairs of Fairfield, NJ, for repair and service of kitchen equipment in accordance with the terms and conditions of Bid #18-02; and

BE IT FURTHER RESOLVED, the pricing of the renewal contract represents a 0% increase of the following Bid #18-02 prices:

<table>
<thead>
<tr>
<th>Bid Hourly Labor Rate</th>
<th>$98.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invoice Markup Rate</td>
<td>12%</td>
</tr>
</tbody>
</table>

This contract is subject to the availability of funds as may be required to meet the extended obligation. If sufficient funds are not appropriated, the Board of Education may cancel the contract.
Sample Plain English Board Resolution

Resolution to Renew Contract with Sal Electric Co., Inc. of Jersey City, NJ for Electrical Services for the 2018-2019 and 2019-2020 School Years – Two (2) Year Renewal Contract

In accordance with N.J.S.A. 18A:18A-42 and based upon the recommendation of Name of Administrator, Director of Facilities, that Sal Electric Co., Inc. has provided services to the school district in an effective and efficient manner, the Board of Education hereby approves the renewal of contract with

Sal Electric Co., Inc.
83 Fleet Street
Jersey City, NJ 07306

for electrical services in accordance with the terms and conditions in the bid specifications and at the costs listed below which represent a 0% increase from the 2017-2018 school year prices as procured through Bid No. 38-18

Renewal-Two (2) Years

<table>
<thead>
<tr>
<th>School Year</th>
<th>School Year</th>
<th>School Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Journeyman Electrician</td>
<td>$98.25 per hr.</td>
<td>$98.25 per hr.</td>
</tr>
<tr>
<td>Invoice Cost for Parts</td>
<td>12%</td>
<td>12%</td>
</tr>
</tbody>
</table>

The term of contract is from July 1, 2018 through June 30, 2020.

This contract is subject to the availability of funds as may be required to meet the extended obligation. If sufficient funds are not appropriated, the Board of Education may cancel the contract.

Funds are available for this contract in Account No. 11-000-261-420-56-0000.

The following documents, when required, are on file with the Business Office:

- Certificate of Employee Information Report
- Chapter 271 Political Contribution Disclosure Form
- New Jersey Business Registration Certificate
- Disclosure of Investment Activities in Iran Form

The Board Attorney will prepare the appropriate contract.
Student Activity Funds
Student Activity Funds

The administration of student activity funds for a school district is highly regulated and the district will have to be in compliance with:

**Student Activity Account Laws**

**Student Activity Funds Code**

**Student Activity Fund Board Policy**
#5830 and #6660

**Recommendation #1 Prepare Manual**
It is recommended the school district prepare a Student Activity Accounts Manual.

**Recommendation #2 Provide Training**
It is further recommended that all principals and student activity advisors receive annual training on proper student activity account procedures.
Select Findings on Student Activity Accounts

Student Activity Accounts are subject to auditor review. Here are auditor findings pertaining to Student Activity Accounts:

- Cash receipts and disbursements were not reconciled in the accounting ledgers;
- Pre-numbered receipts were not utilized;
- No receipt logs were produced;
- Documentation was not always provided to support disbursements.
- Vouchers were not signed for receipt of goods;
- Failure to produce account books;
- Disbursements not student related;
- Checks were pre-signed by the principal;
- Checks were signed with a rubber stamp;
- Checks were made out to cash;
- Failure to have two signatures on checks; missing
- Principal used account to loan money to teachers;
- Principal used account to pay for holiday teacher party;
- Principal paid staff members for after school event;
- Failure to perform monthly reconciliation of accounts.
- Co-mingling Funds with teacher Sunshine Fund;
- Monies were not deposited within a timely manner;

(The most common audit finding for school districts)
Ethics in Purchasing

Prepared by James Shoop, March 2019
“You must lead by example!”

Ethics in Purchasing

Financial Interest in any Contract; Direct or Indirect

No employee or board member may have a direct interest in any contract or agreement for the sale of goods and services to the Board of Education, nor receive any benefit, compensation or reward from any contract for the sale of goods and services to the Board of Education. Reference—N.J.S.A. 18A:6-8.

Solicitation/Receipt of Gifts from Vendors -- Prohibited

School board members, school officials and employees, or members of their immediate family are prohibited from soliciting, receiving or agreeing to receive any compensation, reward, employment, gift, meal, honorarium, travel, reimbursement, favor, loan, service, or other thing of value from any person, firm, corporation, partnership, or business that is a recipient of a purchase order from the district, or a potential bidder, or an applicant for any contract with the district, based upon an understanding that what is solicited or offered was for the purpose of influencing the board member or school employee in the discharge of their official duties. This policy shall be consistent with the School Ethics Act—N.J.S.A. 18A:12-21 et seq.

Public School Responsibility – Recommendation of Purchases

School officials and employees who recommend purchases shall not extend any favoritism to any vendor. Each recommended purchase should be based upon quality of the items, service, price, delivery, and other applicable factors in full compliance with N.J.S.A. 18A:18A-1 et seq.

School officials and employees are to avoid recommending purchases from members of their families, businesses that employ members of their families and from businesses in which the official, employee or members of their immediate family have a direct financial interest.
School officials and employees who are authorized to sign off on purchase orders and/or to recommend purchases or business transactions by virtue of their signature on the purchase order certify that their actions are consistent with this policy and all applicable statutes.

**Vendor Responsibility** – Doing Business with the Board of Education

Any vendor doing business or proposing to do business with the Board of Education, shall neither pay, offer to pay, either directly or indirectly, any fee, commission, or compensation, nor offer any gift, gratuity, or other thing of value of any kind to any official or employee of the Board or to any member of the official’s or employee’s immediate family.

No vendor shall cause to influence or attempt to cause to influence, any official or employee of the Board, in any manner which might tend to impair the objectivity or independence of judgment of said official or employee.

**Vendor Certification**

Vendors will be asked to certify that no official or employee of the Board of Education or immediate family members are directly or indirectly interested in this request or have any interest in any portions of profits thereof. The vendor participating in this request must be an independent vendor and not an official or employee of the Board.

**Violations of the Policy**

In accordance with N.J.S.A. 18A:6-8, any public school employee who violates the terms of this policy may be subject to withholding of annual increments, suspension, demotion, school ethics complaint, termination and/or revocation of license to teach or to administer.
CRIMINAL CODE CITATIONS

Title 2C -- Criminal Code

2C:27-9 Unlawful Official Business Transaction

“A public servant commits a crime of the fourth degree if, while performing his official functions on behalf of the government entity, the public servant knowingly transacts any business with himself, a member of his immediate family, or a business organization in which the public servant or an immediate family member has an interest. (N.J.S.A. 2C:27-9)

2C:27-10 -- Acceptance or Receipt of Unlawful Benefit by Public Servant for Official Behavior

“A public servant commits a crime in the fourth degree...if the public servant directly or indirectly, knowingly solicits, accepts or agrees to accept any benefit, whether the benefit inures to the public servant on another person, to influence the performance of an official duty or to commit a violation of an official duty.