

# The Bid Opening Process

New Jersey Public Schools; Charter Schools  
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**James Shoop**  
**Fairfield, NJ 07004**  
**Shoop18A18A@gmail.com**

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# **The Bid Opening Process**

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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.

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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 (1)**

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.

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### **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.

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### **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.

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### **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  
ANYTOWN BOARD OF EDUCATION  
ANYTOWN, NEW JERSEY

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.

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### **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.

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### **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!”**

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### **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

#### **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.

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### **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.

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### **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.

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### **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.

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### 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.

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### **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.

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### **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.

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### **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**

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