

**CENTER MORICHES UNION FREE SCHOOL DISTRICT
PURCHASING REGULATION**

The following sets forth the procedures for the procurement of goods and services by the district:

I. Definitions

Best value: optimizing quality, cost and efficiency among responsive and responsible offerors. The basis for best value shall reflect, whenever possible, objective and quantifiable analysis, and may also take into consideration small businesses or certified minority- or women-owned businesses as defined in State Finance Law § 163.

Purchase Contract: a contract involving the acquisition of commodities, materials, supplies or equipment. For purposes of best value awards, the term “purchase contract” includes contracts for service work but excludes contracts necessary for the completion of a public works contract covered by the prevailing wage provisions of Article 8 of the N.Y.S. Labor Law.

Public Work Contract: a contract involving services, labor or construction

Responsive offeror: for purposes of best value awards, a responsive offeror is an offeror meeting the minimum specifications established by the District in its competitive offering.

II. General Municipal Law

The General Municipal Law requires that purchase contracts for materials, equipment and supplies involving an estimated annual expenditure exceeding \$20,000 and public work contracts involving an expenditure of more than \$35,000 be awarded only after responsible bids have been received in response to a public advertisement soliciting formal bids, or, in the case of purchase contracts only, awarded on the basis of best value among responsible and responsive offerors pursuant to a competitive offering. Similar procurements to be made in a fiscal year will be grouped together for the purpose of determining whether a particular item must be bid.

III. Competitive Bidding Required

A. Method of Determining Whether Procurement is Subject to Competitive Bidding

1. The district will first determine if the proposed procurement is a purchase contract or a contract for public work.

2. If the procurement is either a purchase contract or a contract for public work, the district will then determine whether the amount of the procurement is above the applicable monetary threshold as set forth above.
3. The district will also determine whether any exceptions to the competitive bidding requirements (as set forth below) exist.
4. All advertised bids shall include the following statement required by General Municipal Law 103-g: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law."

B. Contract Combining Professional Services and Purchase

In the event that a contract combines the provision of professional services and a purchase, the district, in determining the appropriate monetary threshold criteria to apply to the contract, will determine whether the professional service or the purchase is the predominant part of the transaction.

C. Opening and Recording Bids; Awarding Contracts

The Purchasing Agent will be authorized to open and record bids. Contracts will be awarded to the lowest responsible bidder or a purchase contract bid of best value, (as recommended by the Purchasing Agent), who has furnished the required security after responding to an advertisement for sealed bids.

Where the basis for award is best value, the Purchasing Agent shall document in the procurement record and in advance of the initial receipt of offers, the determination of the evaluation criteria, which, whenever possible, shall be objective and quantifiable (such as a cost-benefit analysis), as well as the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted. The basis for awarding the contract may identify a quantitative factor for offerors that are small businesses or certified minority- or women-owned business enterprises as defined in subdivisions one, seven, fifteen, and twenty of Executive Law § 310 to be used in evaluation of offers for awarding of contracts for services. Best value specifications should describe the general manner in which the evaluation and award of offers will be conducted and, as appropriate, identify the relative importance or weighting of non-price factors. In evaluating and determining to accept a higher priced offer, a cost-benefit analysis should generally be used and documented to show quantifiable value or savings from non-price factors that offset the price differential of the lower price offers.

D. Documentation of Competitive Bids

The district will maintain proper written documentation which will set forth the method in which it determined whether the procurement is a purchase or a public work contract.

Proper written documentation will also be required when a contract is not awarded to the vendor submitting the lowest quote, setting forth the reasons therefore. That vendor may be given an opportunity to defend his product and/or reputation before the Board of Education.

A quote which exceeds the bid limit will be awarded only when such award is in the best interests of the district and otherwise furthers the purposes of section 104-b of the General Municipal Law. The district will provide justification and documentation of any such contract awarded.

E. Purchase of Instructional Materials

In accordance with Education Law the district shall give a preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats (i.e., any medium or format for the presentation of instructional materials, other than a traditional print textbook, that is needed as a accommodation for a disabled student enrolled in the district, including but not limited to Braille, large print, open and closed captioned, audio or an electronic file in an approved format.)

The district will establish and follow a plan to ensure that every student with a disability who needs his or her instructional materials in an alternative format will receive those materials at the same time that they are available to non-disabled students.

F. Leases of Personal Property

In addition to the above-mentioned competitive bidding requirements, section 1725 of the Education Law provides that the district will be subject to competitive bidding requirements for purchase contracts when it enters into a lease of personal property.

Documentation: The district will maintain written documentation such as quotes, cost-benefit analysis of leasing versus purchasing, etc.

G. Environmentally-Sensitive Cleaning and Maintenance Products

The district will purchase and utilize environmentally sensitive cleaning and maintenance products whenever feasible. The purchasing agent will consult with the Green Guidelines provided by the Office of General Services.

Any legal issues regarding the applicability of competitive bidding requirements will be presented to the school attorney for review.

IV. Exceptions to Competitive Bidding Requirements

The district will not be subject to competitive bidding requirements when the Board of Education, in its discretion, determines that one of the below situations exists. In this regard, whenever any purchase or public works contract shall exceed the aforementioned statutory thresholds which requires that same be competitively bid, but the Board determines that an applicable exception to competitive bidding applies, the Board must approve the application of such exception, regardless of which exception is utilized, except where an exception pursuant to Paragraph "7" below (i.e., piggybacking) is utilized, such Board approval is not required where such expenditures have already been specifically approved by the Board and/or the District's voters (e.g., a five year maintenance plan, District's budget, etc.).

1. Emergency situations where:
 - a. The situation arises out of an accident or unforeseen occurrence or condition;
 - b. A district building, property, or the life, health, or safety of an individual on district property is affected; or
 - c. The situation requires immediate action which cannot await competitive bidding.

However, when the Board passes a resolution that an emergency situation exists, the district will make purchases at the lowest possible costs, seeking competition by informal solicitation of quotes or otherwise, to the extent practicable under the circumstances.

Documentation: The district will maintain records of verbal (or written) quotes, as appropriate;

2. When the district purchases surplus or second-hand supplies, materials or equipment from the federal or state governments or from any other political subdivision or public benefit corporation within the state.

Documentation: The district will maintain market price comparisons (verbal or written quotes) and the name of the government entity;

3. When the Board separately purchases eggs, livestock, fish and dairy products (other than milk), juice, grains and species of fresh fruits and vegetables directly from New York State producers or growers or associations or producers and growers, subject to the requirements of General Municipal Law §103 (9) and Commissioner's Regulations §114.3.

Documentation: The district will maintain documentation consistent with sections 114.3 of the Regulations of the Commissioner of Education;

4. When the Board separately purchases milk directly from licensed milk processors employing less than forty (40) people. The amount expended in any fiscal year by the district may not exceed an amount equal to twenty-five cents multiplied by the number of days in the school year multiplied by the total enrollment of the district or exceed the current market price.

Documentation: The district will maintain documentation consistent with section 114.4 of the Regulations of the Commissioner of Education;

5. When there is only one possible source from which to procure goods or services required in the public interest.

Documentation: The district will maintain written documentation of the unique benefits of the item or service purchased as compared to other items or services available in the marketplace; that no other item or service provides substantially equivalent or similar benefits; and that, considering the benefits received, the cost of the item or service is reasonable, when compared to conventional methods. In addition, the documentation will provide that there is no possibility of competition for the procurement of the goods.

6. When the district purchases professional services that require special skill or training, such as but not limited to, audit, medical, legal or insurance services, or property appraisals.

Documentation: The district will keep adequate documentation which may include requests for proposals (RFPs) issued, written correspondence, memoranda, and copies of contracts.

7. When the district purchases through the contracts of (or “piggybacks” onto) other governmental entities, as authorized by law, for certain goods and services permitted by law. Factors relevant to the decision to “piggyback” may include cost, staff time, delivery arrangements, quality of goods and services, and suitability of such goods and services to the district’s needs.

Documentation: The district will keep documentation indicating why “piggybacking” is in the best interests of the district, and that the originating contract was let in a manner consistent with applicable competitive bidding requirements.

V. Standardization

Upon the adoption of a resolution by a vote of 3/5ths of the Board stating that, for reasons of efficiency or economy, there is a need for standardization, purchase contracts for a particular type or kind of equipment, material or supplies of more than \$20,000 may be

awarded to the lowest responsible bidder furnishing the required security after advertisement for sealed bids. The resolution must contain a full explanation of the reasons for its adoption.

VI. Quotes When Competitive Bidding Not Required

Goods and services which are not required by law to be procured by the district through competitive bidding will be procured in a manner so as to ensure the prudent and economical use of public monies in the best interests of the taxpayers. Alternative proposals or quotations will be secured by requests for proposals, written or verbal quotations or any other appropriate method of procurement, as set forth below.

A. Methods of Documentation

1. Verbal Quotations: the telephone log or other record will set forth, at a minimum, the date, item or service desired, price quoted, name of vendor, name of vendor's representative;
2. Written Quotations: vendors will provide, at a minimum, the date, description of the item or details of service to be provided, price quoted, name of contact. The district will maintain documentation consistent with Exhibit E.1 that will include advertisements, specifications and the awarding resolution. Alternatively, written or verbal quotation forms will serve as documentation if formal bidding is not required.
3. Requests for Proposals: the district will contact a number of professionals and request that they submit written proposals. The RFPs may include negotiations on a fair and equal basis. The RFPs and evaluation of such proposals will consider price plus other factors such as:
 - a. The special knowledge or expertise of the professional or consultant service;
 - b. The quality of the service to be provided
 - c. The staffing of the service; and
 - d. The suitability for the district's needs

The district will first locate prospective qualified firms by:

- a. Advertising in trade journals;
- b. Checking listings of professionals; or
- c. Making inquiries of other districts or other appropriate sources.

The district will then prepare a well-planned RFP which will contain critical details of the engagement, including the methods which it will use in selecting the service.

B. Purchases/Public Work: Methods of Competition to be Used for Non-Bid Procurements; Documentation to be Maintained

The district will require the following methods of competition be used and sources of documentation maintained when soliciting non-bid procurements in the most cost-effective manner possible:

1. Purchase Contracts up to \$20,000
 - a. Contracts from \$0 to \$2,500: Although no price quotes are required, efforts will be made to procure the lowest price possible.
 - b. Contracts from \$2,501 to \$5,000: 3 Verbal quotes
Documentation will include notations of 3 verbal quotes.
 - c. Contracts from \$5,001 to \$19,999: 3 Written quotes
2. Public Work Contracts up to \$35,000
 - a. Contracts from \$0 to \$2,500: Although no price quotes are required, efforts will be made to procure the lowest price possible.
 - b. Contracts from \$2,501 to \$5,000: 3 Verbal quotes
Documentation will include notations of 3 verbal quotes.
 - d. Contracts from \$5,001 to \$34,999: 3 Written quotes
3. Emergencies: Informal solicitations of quotes or otherwise, to the extent practicable under the circumstances.
4. Insurance: Written quotes or RFP.

Documentation will include advertisements, specifications and the awarding resolution. Alternatively, written or verbal quotation forms will serve as documentation, if formal bidding is not required. Requests for Proposals (RFPs), documented in the same manner as described herein, may also be used.

5. Professional Services: Three written quotes or RFP.

Documentation will include advertisements, specifications, and the awarding resolution. Alternatively, written or verbal quotation forms will serve as documentation, if formal bidding is not required. Requests for Proposals (RFPs), documented in the same manner as described herein, may also be used.

6. Second Hand Equipment from Other Governments: Verbal or Written Quotes.

Documentation will include market price comparisons (Verbal or written quotes) and the name of the government.

7. Certain Food and Milk Purchases: Written quotes

Documentation will be consistent with sections 114.3 and 114.4 of the Regulations of the Commissioner of Education.

8. Sole Source: Written or verbal quotes

Documentation will include, among other things, the unique benefits of the patented item as compared to other items available in the marketplace; that no other item provides substantially equivalent or similar benefits; and that considering the benefits received, the cost of the item is reasonable, when compared to conventional methods. Notations of verbal quotes will be maintained by the district. In addition, the district will document that there is no possibility of competition of the procurement of the goods.

VII. Quotes Not Required When Competitive Bidding Not Required

The district will not be required to secure alternative proposals or quotations for those procurements as permitted by state law:

1. Under a county contract;
2. Under a state contract;
3. Under a federal contract;
4. Under a contract of another political subdivision; Of articles manufactured in state correctional institutions; or
5. From agencies for the blind and severely disabled.

Consistent with General Municipal Law § 103(16), the district may contract for purchase of apparatus, materials, equipment, and supplies, and contract for services related to the installation, maintenance, or repair of those items, through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision therein, provided the contract was made available for use by other governmental entities, and:

- a. The contract was let to the lowest responsible bidder in a manner consistent with General Municipal Law § 103; or
- b. The contract was let on the basis of best value in a manner consistent with General Municipal Law § 103.

In addition, the district will not be required to secure such alternative proposals or quotations for:

1. Emergencies where time is a crucial factor;
2. Procurements for which there is no possibility of competition (sole source items);
3. Procurements of professional services, which, because of the confidential nature of the services, do not lend themselves to procurement through solicitation; or
4. Very small procurements when solicitations of competition would not be cost effective.

VIII. Procurements from Other than the “Lowest Responsible Dollar Offeror”

The district will provide justification and documentation of any contract awarded to an offeror other than the lowest responsible dollar offeror, setting forth the reasons why such

award is in the best interests of the district and otherwise furthers the purposes of section 104-b of the General Municipal Law.

IX. Internal Control

A. Internal Purchasing Thresholds

Whenever the District wishes to make purchases of any kind and nature involving an estimated annual expenditure exceeding \$10,000, and/or enter into public work contracts involving an expenditure exceeding \$20,000, regardless of the mechanism for making such expenditures (e.g., purchase order, etc.), the Purchasing Agent shall submit such expenditures to the Board of Education for its prior approval. No such prior approval by the Board is required: (1) where such expenditures have already been specifically approved by the Board and/or the District's voters (e.g., a five year maintenance plan, District's budget, etc.); or (2) where, in the discretion of the Superintendent of Schools, an expenditure must be made due to the existence of an emergency situation where a district building, property, or the life, health, or safety of an individual on district property is affected, so long as such expenditures do not exceed the above-referenced statutory thresholds for competitive bidding (i.e., \$20,000 and \$35,000, respectively). However, in such cases where the Superintendent determines that an emergency expenditure needs to be made, the Superintendent shall endeavor to provide the Board with notice of its intention to make such expenditure beforehand, or as soon as reasonably practicable thereafter, via e-mail, but Board approval shall not be a prerequisite.

With regard to expenditures exceeding such aforementioned amounts (i.e., \$10,000 and \$20,000, respectively), unless an exception exists as delineated above, no money shall be expended, work by any third-party contractor performed, nor shall any binding agreement be entered into and/or a purchase order issued, without receiving the Board's prior approval. In this regard, the Purchasing Agent shall submit the appropriate purchase order to the Board for its approval, wherein the Board shall, at its sole discretion, approve the expenditure and authorize the Purchasing Agent to issue the purchase order.

Purchases of the same commodity and/or public works contracts relating to the same or similar project cannot be artificially divided for the purpose of avoiding these thresholds.

B. Other Internal Controls

The Board authorizes the Superintendent of Schools, with the assistance of the Assistant Superintendent for Business, to establish and maintain an internal control structure to ensure, to the best of their ability, that the district's assets will be safeguarded against loss from unauthorized use or disposition, that transactions will be executed in accordance with the law and district policies and regulations, and recorded properly in the financial records of the district.

Comments will be solicited from those administrators involved in the procurement process before enactment of the district's regulations regarding purchasing and from time to time thereafter. The regulations must then be adopted by Board resolution. All district regulations regarding the procurement processes will be reviewed by the Board at least annually.

The unintentional failure to fully comply with the provisions of section 104-b of the General Municipal Law or the district's regulations regarding procurement will not be grounds to void action taken or give rise to a cause of action against the district or any officer or employee of the district.

Adoption Date: July 5, 2006

Revised Date: November 1, 2017

PURCHASING EXHIBIT

Methods Of Competition To Be Used For Non-Bid Procurements

	Verbal Quotes		Written Quotes	RFP*	Other
	0	3	3		
Purchase Contracts Up To \$20,000					
Under \$2,500	X				
\$2,501 - \$5,000		X			
\$5,001 - \$19,999			X		
Public Work Contracts Up To \$35,000					
Under \$2,500	X				
\$2,501 - \$5,000		X			
\$5,001 - \$34,999			X		
Emergencies					X
Insurance			X	X	
Professional Services		X	X	X	
Leases of Personal Property					X
Second-Hand Equipment from Other Governments					X
Certain Food and Milk Purchases					X
Sole Source (For example, Patented or monopoly item)					X

*RFP: Request for Proposal