

Policy

CONTRACTS

The Franklin Lakes Board of Education will not enter into any contract with a person, agency, or organization if it has knowledge that the person, agency, or organization discriminates on the basis of race, color, creed, religion, sex ancestry, national origin, age, social or economic status, or non-job-related disability, either in employment practices or in the provision of benefits or services to students or employees.

Contracts will be awarded to the lowest responsible bidder upon action of the board unless the board chooses to reject all bids, to re-advertise, or to purchase under a state contract.

Multi Year Contracts

~~Whenever two or more proposals or bids offer equal prices and are the lowest responsible bids or proposals, the board of education may award the contract to the vendor whose response, in the discretion of the board of education, is the most advantageous, price and other factors considered. In such a case, the award resolution or purchase order documentation shall explain why the vendor selected is the most advantageous.~~

~~All multiyear leases and contracts including any two year or one year extensions, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause. Exceptions include:~~

- ~~A. Contracts for insurance coverage;~~
- ~~B. Insurance consultant or administrative services;~~
- ~~C. Participation or membership in a joint self insurance fund;~~
- ~~D. Risk management programs or related services of a school board insurance group;~~
- ~~E. Participation in an insurance fund established by a county pursuant to N.J.S.A. 40A:10-6;~~
- ~~F. Contracts for thermal energy authorized by law; and~~
- ~~G. Contracts for the provision or performance of goods or services to promote energy conservation through the production of class I renewable energy, authorized pursuant to law.~~

~~All contracts shall cease to have effect at the end of the contracted period and shall not be extended by any mechanism or provision, unless in conformance with the Public School Contracts Law. A contract may be extended by mutual agreement of the parties to the contract when a board of education has commenced re-bidding prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires.~~

~~The board will consider the advantages of entering into a contract for more than one year as the law permits. The board of education will award the contract or reject all bids within such time as may be specified in the invitation to bid, but in no case more than 60 days, except by consent of the bidder and the board to hold bids for a longer period.~~

Multiple Year Contracts

CONTRACTS (continued)

All contracts for the provision or performance of goods or services shall be awarded for a period not to exceed 24 consecutive months, except that contracts for professional services shall be awarded for a period not to exceed 12 consecutive months.

The board directs the business administrator to investigate the advantage to the district of multiple year contracts allowed by law as follows:

A. Supplying of:

1. Fuel for heating purposes, for any term not exceeding in the aggregate, three years;
2. Fuel or oil for use of automobiles, autobuses, motor vehicles or equipment, for any term not exceeding in the aggregate, three years;
3. Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam; or

B. Plowing and removal of snow and ice, for any term not exceeding in the aggregate, three years; or

C. Collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, three years; or

D. Data processing service, for any term of not more than seven years; or

E. Insurance, including the purchase of insurance coverages, insurance consultant or administrative services, and including participation in a joint self-insurance fund, risk management program or related services provided by a school board insurance group, or participation in an insurance fund established by a county, or a joint insurance fund for any term of not more than three years; or

F. Leasing or servicing of automobiles, motor vehicles, electronic communications equipment, machinery and equipment of every nature and kind and textbooks and non-consumable instructional materials, for any term not exceeding in the aggregate, five years; except that contracts for the leasing of school buses may be awarded for any term not exceeding in the aggregate ten years. Contracts shall be awarded only subject to and in accordance with rules and regulations promulgated by the State Board of Education; or

G. Supplying of any product or the rendering of any service by a company providing voice, data, transmission or switching services, for a term not exceeding five years; or

H. Driver education instruction conducted by private, licensed driver education schools, for any term not exceeding in the aggregate, three years; or

I. Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction; or

J. Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years; or

K. Food supplies and food services for any term of not more than three years; or

CONTRACTS (continued)

- L. Purchases made under a contract awarded by the Director of the Division of Purchase and Property in the Department of the Treasury for use by counties, municipalities or other contracting units pursuant law (P.L.1969, c.104 and N.J.A.C. 52:25-16.1), for a term not to exceed the term of that contract; or
- M. The provision or performance of goods or services for the purpose of producing class I renewable energy, at, or adjacent to, buildings owned by the board, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years. These contracts shall be entered into only subject to and in accordance with guidelines promulgated by the New Jersey Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs.

Limitations to Multi-Year Contracts

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.

All multiyear leases and contracts entered into by the board, including any two-year or one-year extensions, except contracts for insurance coverages, insurance consultant or administrative services, participation or membership in a joint self-insurance fund, risk management programs or related services of a school board insurance group, participation in an insurance fund established by the county or contracts for thermal energy, and contracts for the provision or performance of goods or services to promote energy conservation through the production of class I renewable energy, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause. All contracts shall cease to have effect at the end of the contracted period and shall not be extended by any mechanism or provision, unless in conformance with the "Public School Contracts Law (N.J.S.A. 18A:18A-1 et seq.). The contract may however, be extended by mutual agreement of the parties to the contract when the board has commenced rebidding prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires.

Competitive Purchasing

Competitive contracting means the method of contracting for specialized goods and services in which formal proposals are solicited from vendors; formal proposals are evaluated by the purchasing agent or counsel or school business administrator; and the board of education awards a contract to a vendor or vendors from among the formal proposals received.

Competitive contracting may be used in lieu of public bidding for specialized goods or services that exceed the bid threshold, for the following purposes:

CONTRACTS (continued)

- A. The purchase or licensing of proprietary computer software designed for board of education purposes, which may include hardware intended for use with the proprietary software (competitive contracting may not be used for acquiring general purpose computer hardware or software);
- B. Hiring for-profit or not-for-profit entity for the operation, management or administration of recreation or social service facilities or programs, or the operation, management or administration of data processing services;
- C. Services providing energy conservation education and training services to train employees to reduce consumption of energy;
- D. Telecommunications transmission or switching services that are not part of a tariff or schedule of charges filed with the Board of Public Utilities;
- E. The purchase of specialized machinery or equipment of a technical nature, or servicing thereof, which will not reasonably permit the drawing of specifications;
- F. Food services provided by food service management companies when not part of programs administered by the New Jersey Department of Agriculture, Bureau of Child Nutrition Programs;
- G. Driver education courses provided by licensed driver education schools;
- H. Laboratory testing services;
- I. Concessions;
- J. The operation, management or administration of other services, with the approval of the Division of Local Government Services in the Department of Community Affairs.

Adopted: June 5, 2001
 NJSBA Review/Update: September 2009, July 2017
 Readopted:

Key Words

Contract, Bid, Multiyear Contract

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| Legal References: | <u>N.J.S.A. 10:5-1 et seq.</u> | Law Against Discrimination |
| | <u>N.J.S.A. 18A:18A-1 et seq.</u> | Public School Contracts Law |
| | <u>N.J.S.A. 18A:18A-4.1</u> | Use of competitive contracting by boards of education; purposes |
| | <u>N.J.S.A. 18A:18A-5</u> | Exceptions to requirement for advertising |
| | <u>N.J.S.A. 18A:18A-36 thru 39</u> | Award of purchases, contracts or agreements |
| | <u>N.J.S.A. 18A:18A-42</u> | Multiyear contracts |
| | <u>N.J.S.A. 40A:10-6</u> | Establishment of insurance fund; purposes; appropriations |
| | <u>N.J.A.C. 6A:7-1.8</u> | Equity in employment and contract practices |
| | <u>N.J.A.C. 6A:23A-1.2</u> | Definitions |
| | <u>N.J.A.C. 6A:23A-16.5</u> | Supplies and equipment |
| | <u>N.J.A.C. 6A:23A-21.1 et seq.</u> | Management of public school contracts |

CONTRACTS (continued)

N.J.A.C. 6A:27-9.1 et seq. Contracting for transportation services
N.J.A.C. 6A:30-1.1 et seq. Evaluation of the performance of school districts

20 U.S.C.A. 1681 et seq. - Title IX of the Education Amendments of 1972

42 U.S.C.A. 2000e et seq. - Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunities Act of 1972

29 U.S.C.A. 794 et seq. - Section 504 of the Rehabilitation Act of 1973

Possible

Cross References: *3000/3010 Concepts and roles in business and noninstructional operations
*3320 Purchasing procedures
*3326 Payment for good and services

*Indicates policy is included in the Critical Policy Reference Manual.