

**Professional Development Training Session**

**RIDGEWOOD BOARD OF EDUCATION  
RIDGEWOOD, NEW JERSEY 07450**



# **PUBLIC SCHOOL PURCHASING**

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# LEGAL CITATIONS

Compliance, Compliance and Compliance!

## Public School Purchasing

**"All decisions made by public officials should be supported by some legal authority"**

### **New Jersey Public School Contracts Law**

N.J.S.A. 18A:18A-1 et seq.

### **New Jersey Administrative Code (Purchasing)**

N.J.A.C. 5:34-1 et seq.

### **New Jersey Administrative Code (Accountability Regulations)**

N.J.A.C. 6A:23A-1 et seq.

### **New Jersey QSAC—Fiscal Management Indicator #15**

### **Federal Procurement Code—2CFR Part 200.318**

### **Local Board of Education Policy**

# **AUTHORITY TO PURCHASE**

**New Jersey  
Public Schools Contracts Law**

**N.J.S.A. 18A:18A-1 et seq.**

## Authority to Purchase

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

The Purchasing Agent--N.J.S.A. 18A:18A-2(b)

Purchasing Agent means the

- Secretary of the Board
- 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.

A purchase order is a document issued by the Purchasing Agent **authorizing** (not confirming) a purchase transaction with a vendor...N.J.S.A. 18A:18A-2 (v).

### C. What is the purchasing process for the district?

1. The 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.

The district may also receive an audit finding and the district will also lose points in the NJ QSAC Fiscal Management Section Indicator #15.

**NJ QSAC Fiscal Management Indicator #15; 4 Points Assessment**

“The district board of education approves purchase orders only issued by the Purchasing Agent and issued in advance of goods received and services rendered... 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 Secretaries
- No Supervisors
- No Superintendent
- No Architects; Engineers
- No Board Members
- No Facilities Directors

**Withholding of State Aid; Violations of PSCL—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.

**Contracts with Vendors—Shall be in Writing--N.J.S.A. 18A:18A-40**

All contracts with vendors shall be in writing. No school official, may call or contact a vendor to perform any service or provide any goods. The contract with the vendor must be in the form of an official purchase order.

**Gentle Reminder: Authority to Purchase—The School Business Administrator**

The School Business Administrator is the only individual in the school district who has the authority to sign contracts and make purchases for the Board of Education. A fully approved purchase order with the signature of the SBA is the recognized contract with the vendor authorizing goods to be ordered or work/service to begin. Placing an order with a vendor without a PO is an unauthorized purchase. Do not put yourself, or your administrator’s certificate at risk by contacting vendors to ask them to provide goods or services to the district.

**“Do not say, do or sign anything that can ruin you professionally.”**

# **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 the School Business Administrator/Board Secretary, as the (Qualified) Purchasing Agent for the Board of Education and authorizes the School Business Administrator 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 **\$44,000.00** (bid threshold) without public advertising for bids.

Furthermore, the School Business Administrator is authorized to solicit competitive quotations pursuant to N.J.S.A. 18A:18A-37 (a) and award contracts pursuant to N.J.S.A. 18A:18A-37(c).

## **Aggregation and Remaining Amount**

The Board of Education, pursuant to N.J.A.C. 5:34-8.3, et seq., further authorizes the School Business Administrator to seek either competitive quotations or competitive bids when original determinations of aggregation are found to be more than anticipated or incorrect.

## **Preparation of Bid Advertisements; Opening of Bids**

Pursuant to N.J.S.A. 18A:18A-2(b), the School Business Administrator is designated to have the power to prepare advertisements, to advertise for and to receive bids. The School Business Administrator in accordance with N.J.S.A. 18A:18A-21(b), is authorized to publicly receive bids, unseal them and announce the contents

## **Purchase Order System /Authorized Purchases**

All purchases made by the Board of Education shall be done through the purchase order system. Pursuant to N.J.S.A. 18A:18A-2(v), a purchase order is a document issued by the purchasing agent authorizing a purchase transaction with a vendor to provide goods or to perform services.

### **Unauthorized Purchases**

Any Board of Education employee who orders and/or receives any goods and services without going through the approved purchase order process has made an unauthorized purchase. Unauthorized purchases are a violation of State Law N.J.S.A. 18A:18A-2(v) and N.J.S.A. 18A:18A-3(a). **Board employees making unauthorized purchases are subject to disciplinary action as outlined by the Superintendent.**

## **Resolution Adopting 20xx - 20xx Purchasing Manual**

The Board of Education further recommends the Purchasing Manual prepared by **the School Business Administrator**, be hereby adopted for the 20xx – 20xx School Year.

The manual outlines the proper purchasing practices that are to be followed by all Board of Education employees to be in compliance with the New Jersey State Law and Board of Education Policy.

**The Board of Education further empowers the Superintendent of Schools, to impose sanctions against employees who make an unauthorized purchase as defined in the Purchasing Manual.**

# **PURCHASE ORDER RATIONALE FORM**

Performance Audit of Passaic School District  
KPMG—April 2008

<https://www.state.nj.us/education/finance/kw/Passaic.pdf>



## PURCHASE ORDER RATIONALE FORM

### Educational or Operational Rationale

A Purchase Order Rationale Form shall be attached to the top of each purchase order submitted (exceptions noted) to the Business Office. 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 for 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.

### Review

The purchase order will be reviewed to ensure what is being requested is essential to the school district. Purchase Rationale--A rationale for the purchase must be included in the final lines of the requisition (you may use the memo option so that the rationale does not print on the PO):

- **Educational Rationale**--As a result of this purchase explain what will students learn or how students will benefit. Note any educational achievement or program that may be linked to this purchase.
- **Operational Rationale**--How is this purchase of operational value to your school/office. Note any particular benefits to the district. Explain whether any goods/services are being utilized on a regular basis and whether they are useful on a long-term basis.
- **Food Purchase Rationale**--Food can only be provided for functions benefiting students, dignitaries and other non-district employees (e.g. parents). Please give the reason for the function and date. Please name individuals or groups attending the function (include names of employees and Board Members).

# Purchase Order Rationale Form

**A. Educational Rationale**

As a result of this purchase, please explain what will students learn or how students will benefit. Note any educational achievement or program that may be linked to this purchase.

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**B. Operational Rationale**

Provide a brief explanation of how this purchase is of operational value to your school/office. Note any particular benefits to the district. Explain whether any goods/services are being utilized on a regular basis and whether they are useful on a long-term basis.

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Name of School/Office  
Administrator/Supervisor \_\_\_\_\_

Signature: \_\_\_\_\_ Date \_\_\_\_\_

Name of Vendor \_\_\_\_\_

Amount \$ \_\_\_\_\_ Account # \_\_\_\_\_

## Administrative Review

\_\_\_\_\_ Approved                      \_\_\_\_\_ Not Approved

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_  
Approval Official

\_\_\_\_\_ Date \_\_\_\_\_  
Approval Official

***Please attach the Rationale Form to the front of the Purchase Order (Requisition Form) – One Form Per Purchase Order (Requisition Form). – Original signature required (blue ink).***

# **METHODS OF PROCUREMENT**

***“We just can’t go to Costco and buy items off the shelf!”***

## **Methods of Procurement**

### **Available Procurement Methods**

Advertise for Bids

Solicitation of Quotations

Request for Proposals (RFP)

Competitive Contracting Proposals

Extraordinary Unspecifiable Services (EUS) and Insurance

Cooperative Purchasing Systems

- National Coops
- State Contract—NJ START
- County Purchasing Systems
- Local Regional Cooperatives—ESC, ED DATA, etc.

Proprietary Purchases

Emergency Contracts

Shared Services Agreements

Sound Business Practices

Federal Funds UGG Regulations—2 CFR 200.318 et seq.

Federal Funds National School Lunch Program—7 CFR 210.21

### **Deliberative Process—Purchases of Goods and Services Take Time!**

- **Compliance with Law; Code; Board Policy**

Public school purchasing is a deliberative process, designed to ensure compliance with the Public School Contracts Law, appropriate New Jersey Administrative Code, board of education policy and when applicable, Federal Procurement Code.

- **Limit Fraud**

The deliberative process also encompasses checks and balances and internal controls designed to limit fraudulent activities.

**Public school purchasing is indeed a time-consuming effort; please be patient!**

## Methods of Procurement

- A. **ADVERTISE FOR BIDS** (Purchases that exceed the bid threshold--\$44,000)  
This method is used for procuring goods, materials, services and public work projects that exceed in the **aggregate** the Board of education approved bid threshold of \$44,000.

### **Bid Limit -- \$44,000**

The Board of Education is restricted by New Jersey state law on how much money can be spent by the district for the entire year on materials, supplies, and services.

This restriction is called the bid threshold or bid limit. The bid limit is \$44,000. This means that any specific item, class of items, and/or services of a similar nature, purchased by the school district totaling in the aggregate more than \$44,000 for the entire year, must be competitively and advertised for bid. School officials cannot circumvent the law by splitting purchases to be under the \$44,000 bid limit. Administrators that have purchases that may exceed the \$44,000 bid limit, are to contact the Purchasing Office to begin planning the bid process.

### **Annual Bids—N.J.S.A. 18A:18A-9**

The Board of Education, to be in compliance with N.J.S.A. 18A:18A-9, requests Administrators and Principals to plan and prepare for Annual Bids. The proposed timelines are as follows:

<b>February-March</b>	Administrators and Principals prepare technical specifications to be reviewed by the School Business Administrator/Board Secretary.
<b>April</b>	The SBA prepares final bid specifications to be drafted in a manner to encourage free, open, and competitive bidding. Bids are advertised pursuant to the Public School Contracts Law.
<b>May/June</b>	Annual bids are received, opened and tabulated by the School Business Administrator/Board Secretary.
<b>June</b>	Bid resolutions are prepared by the School Business Administrator/Board Secretary for Board approval.
<b>June</b>	Purchase orders are generated by Administrators and Principals for services to begin on July 1 <sup>st</sup> .
<b>June/July</b>	Purchase orders are generated for goods and materials to be delivered to the schools for August/September delivery.

### **Bidding: Time Frame**

As stated before, the formal bidding process usually takes about 6-8 weeks from start to finish. Please plan appropriately. An outline of the bidding process is located in the Appendix.

### **Exceptions to the Bid Limit**

New Jersey State Law allows for some exceptions to the bid requirements. There are approximately twenty (20) exceptions where a Board of Education does not have to advertise bids for goods and services. Some of them are:

- Purchasing through New Jersey State Contract; Other State Approved Co-ops.
- Professional services as outlined by New Jersey law;
- Textbooks, student-produced publications, library and educational goods;
- Legal notices, food supplies, milk, utilities, insurance, election expenses, travel and conferences; and
- Contracts with other government entities; county and state colleges.

These purchases may be subject to the quotation process pursuant to N.J.S.A. 18A:18A-37 (a) if practicable.

### **Award of Contract--Lowest Responsible Bidder**

The common thread of all these bids is the district has to award the contract pursuant to N.J.S.A. 18A:18A-4 (a) to the lowest responsible bidder.

N.J.S.A. 18A:18A-2 (l). "Aggregate" means the sums expended or to be expended for the provision or performance of any goods or services in connection with the same immediate purpose or task, or the furnishing of similar goods or services, during the same contract year through a contract awarded by a purchasing agent.

**B. QUOTATIONS (Purchases that fall between \$6,600 and \$43,999)**

This method of procurement is used for contracts for goods, materials, services and public works projects that in the **aggregate** are between \$6,600 and \$43,999.

**Quotation Limits--\$6,600 through \$43,999**

The quotation limit (threshold) presently is \$6,600. This means that any specific item or group of items of a similar nature purchased by the school district, totaling more than \$6,600 and less than \$44,000 for the entire year, must be competitively quoted or advertised for bid at the discretion of the School Business Administrator/Board Secretary.

School officials cannot circumvent the law by splitting purchases to be under the quotation threshold.

*Please note: The formal quotation process could take about 2-4 weeks from start to finish.*

*There will be no telephone quotations except in a case of extreme urgency.*

**Receipt of Three (3) Quotations**

Evidence of the quotation process shall be kept on file. A copy of the quotation shall be attached to the purchase order. It is the responsibility of the Purchasing Agent to solicit formal quotations.

**Award of Contract—Price and Other Factors**

The School Business Administrator/Board Secretary may award the contract pursuant to N.J.S.A. 18A:18A-37 (a), to the vendor whose response is most advantageous, price and other factors included.

C. **REQUEST FOR PROPOSAL—RFP**--This method is preferred for contracts for:

Professional Services

Medical

Auditing; Accounting

Legal

Engineering, Architectural

Special Education Related Services

Academic/Operational Services

(Contracts less than \$44,000)

Instructional Services

Educational Services

Professional Development

Award of Contract—Evaluative Criteria

The RFP method is designed to award the contract to the vendor based upon a list of criteria as recommended by the NJ State Comptroller's Office with the publication:

***Best Practices in Awarding Service Contracts (2010)***

- Technical Criteria
  - Submission of narrative how the firm will provide services; planned approach; measurable results
  - Understanding how services will be provided
  
- Management Criteria
  - Business organization; staffing
  - Experience; and
  - Knowledge of district
  
- Cost Criteria
  - Fee proposal submission; cost analysis

The contract for an RFP contract does not; I repeat *does not* have to be given to the respondent who submits the lowest price. The evaluative process is designed to award the contract to the respondent whose response will provide the highest quality service at a fair and competitive price.



**D. COMPETITIVE CONTRACTING (Certain Contracts over \$44,000)**

This method is used to procure certain contracts over \$44,000.00.

The district can only use this procurement method for contracts that are outlined in N.J.S.A. 18A:18A-4.1. **Some** of the examples that are permitted are:

1. Proprietary Computer Software for Board Use
  - a. Student Information Systems
  - b. Business Office; Human Resources
  - c. Student Transportation
2. Professional Development Services
3. Educational Consultant Services
4. Instructional Improvement Services

The award of a contract is similar to the RFP award—an evaluative criteria which include, price and other factors considered.

**E. EUS—Extraordinary Unspecifiable Services**

This method is the procurement method for the purchase of insurance and insurance consulting services. Similar to the RFP process

**F. OTHER PROCUREMENT METHODS**

- State Contract (GSA Contracts) Purchasing; NJ START!
- National Cooperatives
- Emergency Contracts
- Cooperative Purchasing Agreements through ESC/ED DATA
- Shared Services Agreements
- Sound Business Practices

**G. Federal Procurement Guidelines—Federal Regulations 2 CFR Part 200.318 et seq.**

School districts, when procuring goods and services using federal funds, shall comply with Federal Regulations Procurement Standards 2 CFR 200.318 et seq., and the New Jersey Public School Contracts Law.

## **Federal Funding**

### **Examples of Federal Funding—Every Student Succeeds Act (ESSA)**

- Title I, Part A – Improving Basic Programs Operated by LEAs.
- Title II, Part A – Teacher and Principal Training and Recruiting
- Title III– English Language Acquisition and Language Enhancement
- Title III—Immigrant Education Program
- Title IV, Part A – Student Support and Academic Enrichment Program
- **ESSER Act I, II, ESSER ARP**—Elementary and Secondary School Emergency Relief Act
- CARES Act—Coronavirus Aid, Relief and Economic Security Act 2020
- Coronavirus Relief Fund Grant 2020

### **Other Examples of Federal Funding**

- I.D.E.A. Part B Handicapped
- Perkins Vocational Education
- National School Lunch Program
- National School Breakfast Program

All grant administrators and Purchasing Agents of school districts are to comply with federal regulations and the Public School Contracts Law and should adhere to the guidance as provided by the New Jersey Department of Education

## **Navigating the Uniform Grant Guidance**

A link to the NJ DOE fourteen (14) page document is provided below:

<http://www.state.nj.us/education/grants/ugg/NavigatingUGG.pdf>

### **Food Services Directors—Final Note**

The USDA and the New Jersey Department of Agriculture—Food and Nutrition, have announced through various documents and forms, new procedures for the procurement of goods and services for the Food Services program in every school district.

# **BOARD OF EDUCATION ACTIONS (Public School Purchasing)**

## **Board of Education Actions (Public School Purchasing)**

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

### **Award of Contract – Lowest Responsible Bidder**

The Board of Education awards contracts to the lowest responsible bidder.  
N.J.S.A. 18A:18A-4 (a).

### **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 are 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).

### **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)

# **Board of Education Actions (Public School Purchasing)**

## **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)

## **Renewal of Contracts -- Services Only**

Contracts for services other than professional services may be renewed by board resolution, as provided by law. (N.J.S.A. 18A:18A-42)

## **Authorizations**

Board resolutions are required for the following:

- Initiate the Competitive Contracting process—N.J.S.A. 18A:18A-4.3 (a)
- Authorizing 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)

## **Board of Education Actions (Public School Purchasing)**

### **National Cooperative Contracts**

It is recommended that the Board adopt the following resolutions pertaining to procuring goods and services from National Cooperative vendors:

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

### **Rejection of All Bids--N.J.S.A. 18A:18A-22**

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

- The lowest bid substantially exceeds the cost estimates for the goods or services;
- The lowest bid substantially exceeds the board of education's appropriation for the goods or services;
- The board of education decides to abandon the project for the provision or performance of the goods or services;
- The board of education wants to substantially revise the specifications for the goods or services;
- The purposes or provisions or both of N.J.S.18A:18A-1 et seq. are being violated; and
- The board of education decides to use the State authorized contract pursuant to N.J.S.A. 18A:18A-10.

## **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)

### **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.**  
N.J.S.A. 18A:18A-5 (c)

### **Awarding Contracts—Less than Ten (10%) of State Contract**

A board of education may award a contract upon solicitation of three quotations 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.**  
N.J.S.A. 18A:18A-5 (e).

### **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.

Please confer with the board attorney on all voting matters.

**YOU ARE BEING  
WATCHED!**



# You are Being Watched!

***“All financial transactions are subject to auditor review!”***

## Audits You May Meet in the Purchasing Process

### **Affirmative Action                      NJ Department of the Treasury—EEO/AA**

The District has to comply with Public Agency Guidelines as set forth by the State of New Jersey. One of the documents auditors look for is the Affirmative Action Certificate. Fines usually start at \$250.00 per day for non-compliance.

### **Annual Audit Program                      NJDOE**

The District Auditor conducts an annual audit as per the Audit Program--Section I, Chapter 5, Bids & Contracting/Purchasing

### **Federal Fiscal Monitoring                      USDE and NJDOE**

The federal and state governments review all activities as they pertain to monies received from the federal government. Consolidated/Collaborative Monitoring Reports.

### **Local Agency Procurement Review                      USDA & NJ Division Food and Nutrition**

The federal and state governments review all activities as they pertain to monies received from the National School Lunch Program.

### **Office of Fiscal Accountability and Compliance (OFAC)                      NJDOE**

The Department of Education has a special unit (OFAC) that does a compliance review of the Public School Contracts Law.

### **Office of the State Auditor                      New Jersey State Legislature**

The Office of the New Jersey State Auditor conducts audits of all levels of government including school districts.

## **Office of the State Comptroller (OSC) New Jersey**

The Office of the New Jersey State Comptroller conducts audits of all levels of government including school districts.

## **State Commission of Investigation (SCI) New Jersey**

The State Commission of Investigation (SCI) conducts audits of all levels of government including school districts. More importantly, the SCI has to authority to recommend criminal charges be brought against those who commit criminal activities in their public office.

## **State Commissioner's Compliance Audit—N.J.S.A. 18A:7A-60; N.J.A.C. 6A:23A-4.1**

The Commissioner of Education, at any time, may authorize a **compliance audit** of a school district's general fund looking for:

- Spending that was not in compliance with Federal and State law and regulations;
- Procedural non-compliance with Federal and State law and regulations;
- Noncompliance with GAAP and/or generally accepted business practices;
- Internal controls weaknesses, and
- Questionable or inefficient spending practices.

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

This audit is designed for school districts receiving 50% or more in state aid.

## **NJDOE Select Abbott Audits**

The audits conducted by KPMG/WISS in 2007 were part of the NJDOE plan to review Abbott School District spending.

## **Wait! There are still more audits! Ouch!**

- Federal IRS Audit—Payroll Taxes; Contracted Service Employees
- 403 (b) 457 (b) Tax Sheltered Annuity Plans; Deferred Compensation
- Federal IRS Audit—Student Activities Account (Google Boston Schools)
- Federal E-Rate Audit—Bidding Process and Purchasing Ineligible Items

**Violations**

**Purchasing Procedures**

**New Jersey  
Public Schools**

## PURCHASING PROCEDURES VIOLATIONS

### BIDDING; AWARD OF CONTRACT; BIDDING VIOLATIONS

Date	Headline	County/Location
<b>November 26, 2003</b>	<b><i>Improper Award of Contract</i></b>	<b>Warren</b>
School district was charged by the State of New Jersey with improperly purchasing \$760,000 worth of classroom trailers. The district had to pay a <b>\$125,000.00 fine</b> . State aid withheld.		
<b>January 3, 2005</b>	<b><i>Improper Award of Contract</i></b>	<b>Burlington</b>
A school district was fined <b>\$73,000.00</b> by the State Department of Education for improperly awarding a contract for a security system. State Law 18A:18A-5(c) says on a second bid if the price is too high, the district has to negotiate with all bidders to obtain a contract. The district chose one bidder and did not involve the other one.		
<b>June 8, 2006</b>	<b><i>School District Breaks Bidding Laws</i></b>	<b>Essex</b>
State DOE determined that a school district violated New Jersey Public School Bidding Laws:		
<ul style="list-style-type: none"><li>➤ Emergency Purchases</li><li>➤ Awarded contract to vendor – Improper Classification</li><li>➤ Ignored low bidder – gave contract to another company</li><li>➤ Assigned purchase orders after work was completed</li></ul>		
State DOE withheld <b>\$750,000.00</b> State Aid.		
<b>February 8, 2007</b>	<b><i>School District Broke Bidding Laws</i></b>	<b>Monmouth</b>
State DOE determined that a school district circumvented the bidding laws by making computer purchases under the bid threshold from several companies that turned out to be one vendor. Over \$283,000 of improper purchases were made. District lost <b>\$283,000.00</b> in state aid.		
<b>July 1, 2007</b>	<b><i>District Fined \$72,000 – Uses Taxi Cabs for Busing</i></b>	<b>Mercer</b>
A school district was fined <b>\$72,000</b> for not bidding for transportation and improper use of taxis to transport special education students.		
<b>July 8, 2007</b>	<b><i>School District Breaks Bidding Laws</i></b>	<b>Mercer</b>
State DOE determined that a school district violated bid thresholds when it purchased, in 2005, a Voice over Internet System. State DOE fined the district <b>\$14,000.00</b> . District purchased system assuming it was a New Jersey State Contract vendor.		
<b>July 2009</b>	<b><i>Aggregate Exceed Bid Threshold – Failure to Bid</i></b>	<b>Passaic</b>
A school district was fined <b>\$18,000</b> for making expenditures in the aggregate exceeding the bid threshold but failing to advertise for bids.		

## NO-BID CONTRACTS

Date	Headline	County/ Location
<b>February 20, 2011</b>	<b><i>Failure to Solicit Bids</i></b>	<b>Burlington</b>
<p>A school district was charged for failing to solicit bids for a job performed by the superintendent's wife (publishing school newsletters and bulletins). The district was ordered to refund \$22,600 (42%) of the \$53,495 she had been paid since 2004.</p>		
<b>September 26, 2003</b>	<b><i>Awarding No-Bid Contracts</i></b>	<b>Middlesex</b>
<p>A school district initially in 2002, was asked to refund \$1.8 million because of awarding no-bid contracts for computer equipment, lockers, janitorial supplies, etc. In March 2004, State waived the "fine" of \$1,000,000.00.</p>		
<b>April 8, 2005</b>	<b><i>No Contracts on File</i></b>	<b>Passaic</b>
<p>A school district in 2000, issued over \$600,000.00 in contracts to vendors for consulting services and has no written contracts on file and contracts were not advertised to bid.</p>		
<b>August, 2012</b>	<b><i>School District Fine – \$44,000 – Failure to Bid</i></b>	<b>Mercer</b>
<p>A school district purchased equipment (\$72,000.00) by using competitive quotations when the district should have advertised for bids. District lost \$44,000 in state aid.</p>		
<b>October 2016</b>	<b><i>Awarding No-Bid Contracts</i></b>	<b>Union</b>
<p>NJDOE Office of Fiscal Accountability cited the district for improperly awarding no-bid contracts to a contractor over a period of years. District was assessed a penalty of \$62,000.</p>		
<b>March 2019</b>	<b><i>Awarding No-Bid Contracts</i></b>	<b>Union</b>
<p>NJDOE Office of Fiscal Accountability cited the district for improperly awarding no-bid contracts for the purchase of vehicles; landscapers and student transportation contractors, all of which exceeded the bid threshold. OFAC referred this audit to the New Jersey State Board of Examiners for a review of the SBA license.</p>		

## CHANGE ORDERS

Date	Headline	County/ Location
<b>December 13, 2003</b>	<b><i>Improper Change Orders</i></b>	<b>Atlantic</b>
<p>A school district in 2003, made change orders that circumvented the bidding statutes and regulations. State recently forgave the \$500,000.00 penalty. District had money left over from a stadium project. Decided to use funds to build a field house through a change order instead of advertising for bids.</p>		
<b>February 12, 2009</b>	<b><i>School District Violated Change Orders</i></b>	<b>Passaic</b>
<p>A school district, through an investigation of the Office of Fiscal Accountability and Compliance Investigation, violated the change order process. The district awarded change orders in the amount of 46% over the contract amount. The limit for change orders is 20% of the award of contract.</p>		

## PROFESSIONAL SERVICES – IMPROPER CLASSIFICATION/AWARDS/NOTICES

Date	Headline	County/ Location
<b>August, 1999</b>	<b><i>Improper Classification</i></b>	<b>Ocean</b>
<p>School district fined \$146,000 for improper classification of</p> <ul style="list-style-type: none"> <li>➤ EUS – Transportation Study</li> <li>➤ Professional Services Contract – Auctioneer</li> </ul>		
<b>August 10, 2009</b>	<b><i>Improper Award of Contract for Professional Services</i></b>	<b>Atlantic</b>
<p>Charter school was found to improperly award a contract for professional services to a building company. Charter school claimed that the contract was for professional architect and design services. The resolution failed to mention it was for professional services. Vendor not licensed to do architectural services in New Jersey. Charter school was <b>fined \$354,000.00</b></p>		
<b>February 8, 2011</b>	<b><i>Improper Classification – Professional Services</i></b>	<b>Warren</b>
<p>School district was found to violate bidding laws by improperly classifying a contract for Security Services as a professional services contract. OFAC says the contract should have been advertised for bid. District fined <b>\$101,000.00</b>. Loss of state aid.</p>		
<b>December 2012</b>	<b><i>Improper Award of Contract – Professional Service</i></b>	<b>Union</b>
<p>School district was fined <b>\$37,850.00</b> for awarding a professional service contract to a construction management company. State determined that the company was not a registered architect or licensed engineering firm.</p>		
<b>September 3, 2014</b>	<b><i>NJ DOE Fines School District Over Insurance Contract</i></b>	<b>Camden</b>
<p>School district was fined over \$31,000 by the NJ DOE for improperly classifying a Broker of Record Insurance Contract as “professional services.” In the six (6) page report the OFAC recommended using the Competitive Contract procurement method for Broker of Record Services. November 2014—OFAC reverses decision—agrees with EUS procurement method for insurance.</p>		
<b>March 2018</b>	<b><i>Construction Management Services—Not Professional Services</i></b>	<b>Mercer</b>
<p>NJDOE Office of Fiscal Accountability cited the district for improperly classifying Construction Management Services as professional services. District assessed a penalty.</p>		
<b>May 2019</b>	<b><i>District Fails to Issue Public Notice</i></b>	<b>Bergen</b>
<p>NJDOE Office of Fiscal Accountability cited the district for failing to have public notices published for the award of professional services contracts.</p>		

## AUDITS OF SCHOOL DISTRICTS—LEGAL SERVICES—2013--PRESENT

### ➤ Office of Fiscal Accountability and Compliance—Investigation Unit

Since 2013, OFAC has conducted audits of seven (7) school districts on procurement of legal services and improper legal services billing.

### ➤ Office of the State Comptroller

The Office of the State Comptroller has issued a report on legal fees by NJ local governments and issued an audit of a school district and legal services.

## RENEWAL OF SERVICES

Date	Headline	County/ Location
<b>December 22, 2004</b>	<b><i>Renewal Without Written Contract</i></b>	<b>Morris</b>
A school district in 2004, violated two state laws by improperly renewing a contract with an alarm system company and then having no written contract with the company. This issue surfaced when a candidate for office found out that the owner of the company went on golf trips with two board members and the School Business Administrator. No penalty was assessed.		
<b>February 27, 2012</b>	<b><i>School Board fined \$326,000</i></b>	<b>Essex</b>
Contract given without bidding. Contract awarded in 2001 to a construction management firm. After two (2) years the board kept using the company for over six (6) years without bidding. District <b>fined \$326,000.</b>		

## MISCELLANEOUS

Date	Headline	County/ Location
<b>May 2007</b>	<b>Purchase of Communications—Ruled Improper</b>	<b>Union</b>
District purchases of communications and television commercials were ruled improper by the Office of Administrative Law. A penalty of \$88,000 was assessed.		
<b>October, 2008, March, 2012, December, 2012</b>	<b>Addendum Law – 7 Days</b>	
School districts failed to comply with the seven (7) day law as it pertained to the issuance of addendum to bids. Passaic/Camden/Essex		
<b>February 12, 2009</b>	<b>Competitive Contracting</b>	<b>Morris</b>
School district was fined \$4,500 for purchasing a student software system without using the competitive contracting procurement process.		
<b>August 23, 2012</b>	<b>District Fined \$25,000—Improper Business Practices</b>	<b>Mercer</b>
A school district was fined \$25,000 by the State of New Jersey for improper business practices with an insurance brokerage firm.		
<b>July 2014</b>	<b>Failure to Comply with PSCL—SBA License Revoked</b>	<b>Bergen</b>
The NJ State Board of Examiners revoked the license of an SBA for failure to comply with the Public School Contracts Law.		
<b>May 2016</b>	<b>District Used Food Services Funds for Staff Meals</b>	<b>Union</b>
NJDOE Office of Fiscal Accountability cited the district for improperly using National School Lunch Program Funds to pay for meals for board members and staff of the district. A penalty of \$272,000 was assessed.		
<b>March 2019</b>	<b>District Purchases Equipment from Employee</b>	<b>Camden</b>
NJDOE Office of Fiscal Accountability cited the district for initially attempting to purchase for district use from a district administrator. The purchase was rescinded by the district.		
<b>September 2021</b>	<b>District Purchases Services from Employee Company</b>	<b>Sussex</b>
The Office of the State Comptroller issued an audit citing a school district in Sussex County for awarding vendor contracts to district employees who owned businesses that provided services to the district.		



# Fraud

## FRAUD—NEW JERSEY SCHOOLS

### **December 30, 1999 School Director Faces Tenure Charges Over Nepotism; Hiring Companies**

A school administrator has tenure charges brought against her for hiring her husband's company to do work for the district and also hiring her son's company to do other work. No work was done. In 2000 she was dismissed from her tenured position. (Passaic)

### **September 11, 2001 Ex-School Official Gets Forty-Six (46) Months**

The ex-school business administrator was sentenced to forty-six (46) months in prison for embezzling \$1.7 million in district funds. He set up phony companies and prepared phony invoices. He also issued the checks himself. (Bergen)

### **September 20, 2002 Former School Chief Admits Kickbacks**

A school district superintendent of Schools admitted to soliciting \$3,000 in kickbacks from the district's insurance broker. He received five (5) years' probation and a \$10,500 fine. (Middlesex)

### **May 20, 2003 Ex-School Official Gets Probation on Thievery**

School Business Administrator stole \$41,000 in computer equipment. Police had to rent a truck to take away the equipment they found in his home. (Union)

### **June 17, 2003 Ex-School Official Admits Illegally Steering Job Bids**

School Treasurer admitted to rigging a bid so that a relative would win the contract. The total amount of the bid was \$11,500. (Burlington)

### **August 27, 2003 Payroll Clerk Arrested**

A payroll clerk for a regional high school was arrested for stealing over \$600,000 from the district since 1984. (Sussex)

### **December 18, 2003 Business Administrator Indicted**

School Business Administrator used district's debit card to purchase personal items. (Camden)

### **March 27, 2004 Ex-School Accountant Sentenced**

A school district bookkeeper was sentenced to eleven (11) years in prison for stealing \$146,541 from the district. (Morris)

### **February 18, 2005 Ex-School Supervisor Guilty in Bribe Case**

The school district's maintenance supervisor pleaded guilty to receiving gifts and cruises from a window company in return for not inspecting their work and signing off on bills knowing they were not accurate (\$2.5 million). (Passaic)

## FRAUD—NEW JERSEY SCHOOLS

### **May 7, 2005      Technology Director Sentenced**

A school district technology director received four (4) years in prison for taking 100 school computers and selling them to teachers and other employees, pocketing the money. (Mercer)

### **February 2, 2006      School's Yearbook Advisor Indicted**

Teacher took \$12,300 in yearbook Student Activity funds for personal use. (Morris)

### **February 6, 2006      Ex-Director of Facilities Pleads Guilty**

The school district's facility director pleaded guilty to receiving \$47,000 in cash from two contractors doing business in the district. The contractors were paid by the district at the director's insistence for work not done or not inspected. (Passaic)

### **October 7, 2006      Ex-Comptroller Sentenced**

The school district comptroller was sentenced to four years in prison for forging checks to steal \$91,000 from the cafeteria account. (Essex)

### **March 16, 2007      Superintendent Pleads Guilty; Resigns**

The district superintendent pleaded guilty to spending \$26,000 on business lunches and dinners and submitting \$11,000 in illegal payments to two town officials. (Bergen)

### **March 20, 2007      Ex-Principal and Aide Accused of Cash Scam**

A school principal and staff member were charged and found guilty of stealing money from a student activity account, charging parents for field trips, while the trips were paid through purchase orders. (Camden)

### **October 30, 2007      Ex-Official Faces Fraud Charges**

The district's director of school facilities was charged with fraud by overpaying a contractor, then having the contractor do work on his property. (Bergen)

### **September 7, 2008      School Board Members Charged with Taking Bribes**

Four board members of the school district were charged with taking bribes from a phony insurance company to have the company sell insurance to the district. The probe also involved state officials and other local North Jersey elected officials. (Atlantic)

### **January 9, 2009      Superintendent Admits to Theft**

A former Superintendent of Schools in Hunterdon County admitted embezzling \$90,000 worth of public funds. He was sentenced to 12 months in prison. (Hunterdon)

## FRAUD—NEW JERSEY SCHOOLS

### **February 20, 2009 School Official Pleads Guilty**

A former Somerset facilities director pleaded guilty to using district funds to refurbish his kitchen and buying water heaters for his plumbing business. He was sentenced to eight years in jail. (7/24/2009) (Somerset)

### **September 30, 2009 School Administrator Pleads Guilty**

A former School Business Administrator pled guilty to accepting \$120,000 in kickbacks on bid contracts. He received a sentence of seven years in jail. (Essex)

### **November 22, 2010 Former Athletic Director Admits Fraud**

Former Athletic Director in Monmouth County school district admitted in court of taking over \$3,000 in personal goods for providing fake quotations to benefit Circle System Group.

### **January 5, 2011 Former Athletic Trainer Admits Fraud**

A former athletic trainer in a Union County school district admitted taking over \$7,000 of personal goods for inflating invoices received from Circle System Group. (Union)

### **October 24, 2011 Business Administrator Pleads Guilty to Contractor Scheme**

A school business administrator pleaded guilty to accepting \$13,000 in windows and doors from a contractor that he recommended to be hired by the “contractor of record” for the school district. He received one year probation. (1/27/12) (Union)

### **October 12, 2012 Ex-Transportation Head – Stealing from Districts by Authorizing Payments to Fictitious Bus Companies**

A transportation official and her mother were arrested and charged with \$565,772 from districts by authorizing payments to fictitious bus companies for services never provided. (Middlesex)

### **September 14, 2012 Superintendent of Schools Sentenced**

A superintendent of schools for an Ocean County school district was sentenced to 11 years in jail for extorting up to \$2 million in kickbacks from brokers doing insurance business with the district.

### **September 12, 2014 Former Business Administrator Pleads Guilty to Embezzlement**

The former school business administrator for a Warren County School District pleaded guilty to embezzling over \$70,000 from the school district by fraudulently writing checks to himself and a person he owed money to. December 2014—Official sentenced to three (3) years in prison. (Warren)

### **January 16, 2016 School Business Administrator Arrested**

A School Business Administrator was arrested for embezzlement of \$19,000. The SBA took an opt-out health benefits payment while still receiving health benefits from the school district. Pre-Trial; Licensed Revoked (Bergen)

## FRAUD—NEW JERSEY SCHOOLS

### **May 25, 2016 District Maintenance Worker Admits Fraud**

A school district maintenance worker signed off on the fraudulent and overbilled invoices submitted by a vendor. In return, a vendor employee gave the maintenance worker over \$9,000 of goods, including a computer, lawnmower, and dishwasher. The vendor employee received a four year jail sentence. (Union)

### **October 2, 2017 Charter School SBA Sentenced for Theft**

A charter school SBA was arrested for stealing over \$75,000 from the school's Payroll account. The SBA was sentenced to Drug Court; license revoked (Passaic)

### **June 4, 2017 Teacher/Football Coach Jailed Stealing Student Funds**

A former teacher and football coach was sentenced to 90 days in jail for stealing over \$14,000 from the high school student activity fund. (Burlington)

### **June 14, 2017 Former SBA Pleads Guilty to Official Misconduct**

A former SBA pleaded guilty to official misconduct for hiring without Board approval, a paid intern. His SBA license was later revoked. (Monmouth)

### **May 24, 2017 Former Board Member Pleads Guilty to Mail Fraud**

A former Morris County school district board member pleaded guilty to mail fraud for his role in a scheme to obtain \$370,000 of insurance commissions while he was a member of the board of education (Morris)

### **September 15, 2017 Athletic Director Admits Theft**

A school athletic director admitted to stealing over \$1800.00 from the district's Athletic Fund. (Cape May County)

### **July 13, 2018 Athletic Director Indicted for Theft**

A school athletic director was indicted on charges of stealing over \$10,000 from the district's Athletic Fund. (Somerset)

### **July 16, 2018 Bookkeeper Pleads Guilty to Theft**

A former bookkeeper pleaded guilty to stealing over \$190,000 from the School district. (Hudson)

### **August 23, 2018 School Business Administrator Charged**

A School Business Administrator was charged for stealing over \$14,900 from District accounts. (Morris)

### **September 25, 2018 Band Director Pleads Guilty Stealing Band Funds**

A high school band director pled guilty to stealing over \$2,300.00 from the high school band account. Sentencing will be in December. (Ocean)



# **ETHICS IN PURCHASING**

***“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.