

Pupil Transportation Contracts **July, 2007**

How to Contract for Pupil Transportation: There are 3 Ways to Award a Contract – **Competitive Bid, Request for Proposal (156.12) and negotiate** with another school district or BOCES.

Competitive Bid:

- Any single contract costing \$10k or more must be competitively bid.
- When the total of all new contracts for the school year total \$10k or more **all of the contracts** must be bid, not simply the one that throws the aggregate total over \$10k.
- Contracts which are not anticipated (known about before the start of school) and which are each under \$10k are called Partial Year Contracts and do not have to be competitively bid.
- Contracts which are not anticipated before the start of school and are \$10k or more are called Emergency Contracts and must be competitively bid. You may enter into a One Month Emergency Contract (31 calendar days) during which you must do a competitive bid. If you cannot, you must obtain our Program Office Approval for a Second One Month Emergency Contract. We have no authority to approve any additional time beyond the second one month emergency (Ed Law 305 (14)b).
- School districts may bid themselves or cooperatively with other school districts and BOCES. Section 109-o of General Municipal Law gives districts & BOCES the power to enter into agreements amongst themselves to do jointly all that which they are empowered to do individually. This is called a Cooperative Bid. Only districts/BOCES which are part of the original bid may award a contract based upon that bid.

Basics of Competitive Bidding:

- You must advertise the bid in your districts official newspaper(s).
- 7 Day Rule – There must be 5 days between the date it was first advertised in the newspaper and the day of bidding opening. You may not open bids on Sunday,
- You must have defined quantities or bid specifications that clearly state what the vendors are bidding on. You may not be so restrictive in requirements that only one vendor can qualify (ie – age of buses).
- You may bid different types of transportation services at the same time: regular school year, summer, special needs summer, field trips, athletic trips. You may do one bid but you must award separate contracts by the type of transportation service.
- You must bid a parent contract if the aggregate total of all your new school year anticipated contracts is \$10k or more or if you wish to extend the contract.

Awarding a Competitively Bid Contract:

- You must award the contract within the bid opening period, generally 30-60 days. You may not go back and award it later.
- School year contracts may not start before September 1st or end after June 30th of the school year.
- Summer contracts may not start before July 1st or end after August 31st.
- All participants in a cooperative bid must have bid quantities in order to make an award. If you participated in the bid but did not bid quantities for all services (runs, locations), you may only award contracts for services which you bid.
- You may not piggyback on another school district's award simply because you were part of the greater cooperative bid. Piggybacking exists when you are using the services provided by a private contractor under contract with another school district and not with your school district.
- You must have voter approval to award a multi-year contract. Multi-year contracts are for 2,3,4 or 5 years.
- You do not need a separate budget proposition for multi-year contracts. However, you must have language in the budget materials for voters that lists the contracts, year of the contract, current year price, and total multi-year price. See the instructions on the back of the contract form for an example.
- You may not award a contract for zero anticipated cost in case you may need it. You may bid a service that you might need, but you may not award it until you do. If you do award a contract and then not use it during that school year, you may not extend that contract into the next school year.
- You may not award a 12 month pupil transportation services contract. You may award a school year, summer special needs and summer BOCES.
- Only a maintenance contract can be awarded for 12 months or an operations & maintenance contract.
- Although you bid specs may list several different types of transportation services (regular, field trips, athletic trips, summer), you must award separate contracts for each type for each vendor. Combined or mixed purposes contracts must be disapproved.

Negotiating a Contract:

- You may negotiate a contract with another school district or BOCES. This is called **shared services**. It exists when one district or BOCES transports the pupils of another district or BOCES on district owned or leased school buses. A shared services agreement/contract does not exist when pupils ride a contractor owned school bus. You must file a Contract Form to obtain aid.
- BOCES should have an approved COSERS with SED in order to provide pupil transportation services.
- You may negotiate a price or obtain a telephone quote from a vendor for a One Month Emergency Contract, or a Partial Year Contract.

Request for Proposal (RFP) (Ed Law 305 (14), 8 NYCRR 156.12):

- An RFP does not exist when you call some vendors on the phone and obtain telephone quotes of prices.
- An RFP must be advertised in your district official newspaper(s). The ad must contain the 10 criterion and their point value or weighting. The 7 Day rule for advertising applies to RFPs – there must be 5 full days between the first day of advertisement and the bid opening date.
- You must determine a total minimum score below which an award will not be made prior to scoring the proposals.
- No single criterion may be weighted or valued at more than 50% of the total.
- A review or scoring committee must be established to review the proposals. They must be provided with a concrete methodology for scoring each of the 10 criterion.
- Each proposal received must be scored by the reviewing committee following the prescribed evaluation criteria. Even if there is only one proposal, it must be scored. You must determine whether it exceeded the minimum score threshold in order to make an award.
- Copies of the bid specifications, advertisements, all proposals and scoring forms from reviewers, along with the resultant contract, must be filed with SED within 120 days of the first day of service.
- SED Program Office approval of the RFP does not automatically signify approval of the contract. The will be reviewed and approved separately.
- Contracts awarded through an RFP and which have voter approval, may be extended.

Extending Contracts:

- You may only extend a contract which was competitively bid and which had voter approval – generally not partial year, emergency, and negotiated contracts.
- You may not extend a contract after the first day of school.
- You may extend an contract issued through a Request for Proposal (RFP).
- You may extend a contract for 1, 2, 3, 4 or 5 years.
- You may increase the cost of an extension by up to approved transportation CPI (Consumer Price Index) which is 2.5% for 2007-2008 school year contracts. The annual CPI will be published on our webpage the day it is issued by the federal government.
- In order to qualify for CPI the contractor must document on the Cost Justification Form that they have had cost increases related to the contract which meet or exceed the current annual CPI. These forms should remain in district files with all contract information. They are not submitted to SED.
- You may only exceed CPI by the amount of Pass-Through Expense the contractor documents on the Cost Justification Form. If Pass Through-Expense is given, then the forms **must** be submitted to SED.
- You may not increase the cost of a contract beyond CPI and Pass-Through Expense.
- You may not materially modify a pupil transportation contract. The only modifications permitted are specified in 8 NYCRR 156.1 (f).
- You may not increase the cost of a contract due to a “Fuel Surcharge” or escalator expense requested by the contractor.

Special Categories:

- Parent Contracts are governed by SED, DMV and DOT. Parents may only transport their own children; never someone else’s child. There are no exceptions permitted. DOT does not require their inspection of the parent owned vehicle, and DMV does not require Article 19A compliance for the parent.
- To qualify for these waivers, parents must only be reimbursed for the actual expense of providing the transportation service. This does not include reimbursement for lost time, wages, inconvenience, etc. It only includes actual expenses of operating the vehicle plus any highway tolls.
- The easiest way to calculate an acceptable cost for a parent contract is to reimburse the parent based upon the IRS mileage rate (or your district employee mileage rate) plus any tolls.
- Contracts for pupils with a handicapping condition should maintain records that link the placement of a school bus attendant to a particular child’s IEP in order to justify your request for aid for the position. The cost of an attendant required by a child’s IEP is transportation aidable, while the cost of a monitor is not.

Submitting/Filing Contracts with SED:

- You must submit your new contracts/extensions for Commissioner approval within 120 days of the first day of service.
- Late Filing (after 120 calendar days) may result in Program Office Approval with a deduction of transportation aid for each school day the contract/extension was late.
- Late Execution (agreement date after the first day of service). The Agreement Date is the date of the Board President and the Contractor agreement. This will result in Program Office Approval with a deduction of transportation aid for each school day the contract was executed late.
- Late Advertisement is failure to advertise a bid by June 1st for regular transportation and July 1st for special needs transportation (8 NYCRR 156.1 (b)). A letter of explanation for the late filing must be submitted with the contract in order to receive SED approval.
- Superintendent's signature/approval date must be on or after the Agreement Date. He/she does not approve before the Board of Education.
- Multi-Year Contracts **should only** be submitted once, for the first year of the multi-year agreement, not again for each and every year of the multi-year contract. (ex. A three year contract is not submitted each and every year as a 3 year contract.) A one year term contract **is** submitted each year.
- Contracts negotiated between school districts and BOCES must be negotiated and submitted afresh each year as a new contract.
- All the lines and spaces on the contract or extension for must be completed. Please do not leave the total anticipated line blank. Make sure the beginning and ending dates of the contract occur within the appropriate school year(s).
- You must submit the contract form, bid specifications, affidavit of publication or proof of advertising and bid tabulation (on reserve of form) and bid prices.
- You must submit the Cost Justification Form if granting Pass-Through Expense.
- You should include a cover letter listing each and every contract or extension included in the mailing (contractor name, dollar value or other designation). This is necessary to prove intent to comply with the filing requirement.
- You should send the package Return Receipt Requested. If you have a return receipt and the package is lost it, along with the cover letter, will constitute proof of filing with SED.

Special Program Office Concerns

Contingency Budgets:

- Ed Law section 2023 provides that school districts where the school budget has been defeated by the qualified voters of the school district, shall continue to transport students to and from regular school programs (not athletic or field trips) in accordance with the mileage limitations previously adopted by the qualified voters of the school district.

Your eligibility distance does not change simply because your school budget was defeated.

Web Addresses

Program Offices:

Pupil Transportation Services – www.emsc.nysed.gov/schoolbus/
Office of State Aid – <http://stateaid.nysed.gov>

Email Addresses:

Marion Edick – medick@mail.nysed.gov
Bill Demski – bdemski@mail.nysed.gov
James Dundon – jdundon@mail.nysed.gov
Tim Newbury – tnewbury@mail.nysed.gov