

Contract/Extension Tips

Awarding a PT Contract:

- All multi-year contracts, contracts with a cost of \$10k or more, and the aggregate of all anticipated contracts for a school year totaling \$10k or more must be competitively bid. All must be bid, not just the one putting the total aggregate cost over the \$10k threshold.
- You may only extend a contract that has been competitively bid and has voter approval. Multi-year contracts must have voter approval. You do not need a separate proposition. You should have language in the budget materials for voters that lists the contracts, year of contract, current year price, and total multi-year price. See Contract Form instructions for an example. You may not extend a contract after the first day of school.
- All bids must be advertised in the district's official newspaper and there must be 5 full days b/n the date of advertisement and date of bid opening (7 day rule). You may not open bids on a Sunday.
- There are 3 ways to award a contract: competitive bid, RFP, negotiate w/ another school district
- There are 2 kinds of competitive bids: one single district, multiple districts in a cooperative bid

Cooperative Bids, Piggybacking, Shared Services:

- Section 109-o of General Municipal Law gives schools and BOCES power to enter into agreements among themselves to do jointly all that which they are empowered to do individually. Only schools and BOCES that were part of the cooperative bid may enter into contracts or extensions.
- All participants of the coop. bid must have defined quantities in order to make an award. If you did not bid it you may not award it.
- If you did not award it within bid opening period (generally 30-60 days), you may not go back and award it later. If you did not bid the service you may not piggyback on another school district's contract simply because you were a member of the coop. bid.
- You may do a shared service agreement with another school district. If that school district has a district owned bus transporting pupils to the same location that you need to send students to, you may enter into a shared services contract with that school district.
- 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.

Basics in Filing out Forms:

- Please fill out the forms completely. Do not leave any blanks. Do not say "see attached" and expect SED staff to find the information, or perform your calculations. School districts will be expected to complete the "anticipated cost" blank and to calculate the CPI increase costs. All required signatures must be present.
- Do not submit a contract or extension for zero anticipated cost. Schools and BOCES do not have the legal authority to enter into a service contract with a vendor for the provision of no services at zero cost.
- Mail a cover letter with your forms detailing what is enclosed and send it "return receipt requested". If it is lost and you have the cover letter and receipt, we can acknowledge that it was sent and lost by SED.
- All contracts and extensions must be submitted to SED within 120 days of the first day of service.

Request for Proposal (RFP): (Ed Law section 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 official newspaper. The ad must contain the 10 criterion and their point value or weighting. You must determine a total minimum score below which a contract will not be awarded. No single criteria shall be weighted more than 50% of the total. The 7 day rule applies to RFPs – there must be at least 5 full days b/n the advertisement date and the date of bid opening.
- 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 that it exceeded the minimum score threshold.

- Copies of the bid specifications, advertisement, all proposals, and scoring forms from reviewers, and the resultant contract must be sent to SED for approval within 120 days of the first day of service. . Approval of the RFP does not automatically mean that the contract has also been approved.
- Multi-year contracts awarded through an RFP process, with voter approval, may be extended.
- SED has a checklist of requirements for an RFP on our website that you are encouraged to complete and submit.

Summer Contracts :

- There are 3 kinds of Summer Contracts – transportation to BOCES sponsored programs (no trans. aid), transportation for Special Education students (aid through STAC), and transportation to a District Operated Summer School Program (state aid pool).
- Summer contract may not have a start date before July 1st and must not have an ending date beyond August 31st.

Mixed Purpose Contracts:

- You may not enter into a “12 month contract”. Summer contracts, and School year contracts must be separate.
- Although your bid specs may list several different types of transportation, you must award separate contracts for Regular Transportation, Field Trips & Sports Trips, and Summer Transportation.
- Combined or mixed purpose contracts will be disapproved.

Parent Contracts, Fuel Surcharges, Contract Modification:

- Are subject to competitive bidding. Although, parent contractors are not subject to DMV 19A, SED 156.3, or DOT vehicle inspections. Parent contracts are subject to advertising and competitive bidding. You may only reimburse the parent for their actual cost or the IRS (or your school district) mileage rate plus tolls. Parents may only transport their own child, never any other child.
- Districts may not pay a contractor a “fuel surcharge”. The only escalators that are permitted by law are the CPI for extensions and Pass Through expenses.
- 8 NYCRR 156.1 (f) explains the requirements for modifying a contract – key is no additional cost to the district.

Special Education Transportation Records:

- School districts should maintain records that link the placement of an attendant to a particular child’s IEP in order to justify your request to aid the position. The cost of an attendant required by a child’s IEP is trans aidable, while the cost of a monitor is not.

Aid for the Purchase of Cars:

- Cars are only eligible for transportation aid if they are used 100% on regular routes. No superintendent’s car, or conference car will be aidable.

Emergency Contracts, Partial Year Contracts, Leases and Replacements:

- A Partial Year contract occurs when you contract unanticipated services after the first day of school and the total anticipated cost is less than \$10k – no competitive bid.
- An Emergency contract occurs when you contract for unanticipated services after the first day of school and the cost for the rest of the year is expected to be over \$10k. An Emergency contract is for no more than 31 calendar days during which time you must go out and competitively bid the service. You need SED approval to do an Emergency Contract – please call. In rare occasions or during the summer, SED may grant a second One Month Emergency Contract – need SED prior approval and must show cause. (Ed Law 305 (14)b)
- Leasing School Buses (Ed Law 1709 (25) i) – may lease vehicles for up to one year without voter approval. Multi-year leases require voter approval. Leases over \$10k must be competitively bid. Copies of the advertisement, bid specs, voter approval, and lease must be submitted to SED for approval. When the total cost of the lease is equal to the purchase price of the vehicle or greater, then it is considered to be an installment purchase and the school district would retain possession of the vehicle at the end of the lease.

- Emergency Lease of school buses (8 NYCRR 156.6) – Within 10 days of an emergency situation the district must submit to SED a statement explaining the emergency, a copy of the board resolution declaring the emergency and the action to be taken, along with the anticipated duration of the emergency. SED may grant a 90 approval for an emergency lease of vehicles. At the end of the 90 days the district may reapply and request approval to continue the lease to the end of the school year.
- Chapter 818 Bus Replacement (Ed Law 1709 (25)) – Replacement of vehicles, owned by the district, necessitated by damage or loss and used to transport pupils may be purchased by any unencumbered funds in the General Fund or by the issuance of budget notes, and insurance proceeds. Voter approval is not required. Districts must submit an SA-16 form, copy of the board action, and reason for the replacement to the Office of State Aid for approval.

Repair of Buildings & Equipment (Transportation Aid vs. Building Aid vs. Local Cost):

- Rule One: If the total cost of the repair is above \$10k, then it is a building expense, not a transportation expense.
- Rule Two: If the activity is a *repair* and not a *replacement*, then it may be trans aidable.
- Rule Three: If a lift is moveable (portable) then it may be trans aidable, whereas in ground lifts are building expense.
- Rule Four: Some repairs may still be trans aidable if the expense is directly related to the provision of pupil transportation services. (example – repairs to a bathroom in the bus garage totaling more than \$10k would not be aidable). Determination is made on a case by case basis. Must request SED approval in writing.

Equipment, Software, Consultants:

- Purchases of computer equipment, routing software and services may be aidable if approved by SED. Districts must submit a written request for approval – see directions on our webpage. Competitive bidding may apply.
- Districts may request trans aid for the use of consultants to conduct various types of transportation studies. The request must be in writing for approval – see directions on our webpage.

Program & Safety Tips

Age of child for transportation eligibility: A child must turn 5 years old on or before December 5th to be eligible for transportation in that school year.

Eligibility distance: is measured from the child's home to school the child is attending. It is measured over the most direct and available route. The route is not necessarily one a car can travel on as it may include public pathways. You may use a routing program, regular map, vehicle with a calibrated odometer, or any vehicle without a calibrated odometer as long as you consistently use that vehicle. The measurement is made from a point on school property to a point on the parent's property to be selected by the district, however such points shall be used consistently for all children.

Changing eligibility distance due to a contingency budget: The eligibility distance of a district does not automatically revert to state maximums due to a contingency budget. They remain the same as last enacted by a vote of the registered voters of the school district. Only the voters can change the eligibility distance.

Non-public transportation and the April 1st deadline: The Commissioner has held in appeals that if a parent mails an application for transportation by the school district's deadline date, it is considered to be filed timely. Thus, you may not automatically discard or deny applications received after April 1st if they were postmarked by April 1st. The parent must have used the correct district mailing address, appropriate postage, and actually mailed the request by the deadline date.

Students with temporary physical injuries: School districts may have to transport a child with a temporary medical injury if the parent applies for a 504 medical classification for the child. During the time between the parent's application for the classification and the decision, SED strongly suggests that the transportation be provided. Absent a request for 504 classification if a child is under the age of 16, the district would be required to provide a home tutor or provide the busing.

Transportation on optional school holidays: School districts have an obligation to share their start/dismissal times and school year calendar with non-public schools during the summer months prior to the opening of school. Districts do not have the legal authority to provide transportation on the official state holidays when they are required to be closed. They do not have the legal authority to transport nonpublic students before the start of the public school year. On the optional school holidays, when districts are not required by the state to be closed, the district has the authority to determine whether or not it will provide transportation for private school students. They must, however, have shared their calendars and start dates. If a school district decides during the school year to change its calendar for a new optional holiday, it must give reasonable notice to the nonpublic schools and parents. Reasonable is at least two weeks. Districts must provide transportation for a child with an IEP on the optional school holidays, but not on the required state holidays.

Resources for pupil transportation information:

Available on the SED website: www.emsc.nysed.gov/schoolbus/

District Safety Review
Commissioner's Regulations
Appeals to the Commissioner
Contract/Extension Forms
Information sections for School Bus Officials, Transportation Directors, SBDIs, Parents, etc.

Link to Office of State Aid website: http://stateaid.nysed.gov/trans/trans_info.htm

Contact Information: phone 518-474-6541, fax 518-474-1983

Email Addresses: Marion Edick = medick@mail.nysed.gov
Bill Demski = bdemski@mail.nysed.gov
Jay O'Connor = joconno3@mail.nysed.gov

Reporting School Bus Accidents and Student Fatalities:

School districts are required to immediately notify the SED if they should have a school bus student fatality or a school bus accident with serious or critical injuries. School districts, contractors and nonpublic schools are all required to submit MV104F forms for a qualifying accident. Please call 518-474-6541 to report a fatality.

SED will be issuing a formal policy statement regarding school bus fatalities and accident investigations in the next few weeks.