

(c) Individual requests shall be submitted on or before March 1 preceding the school year.

(d) Textbooks purchased shall be ordered in accordance with district board of education policy and purchasing practices.

(e) Students attending public schools are not required to submit such requests.

6A:23-6.4 Ownership and storage of textbooks

(a) All textbooks purchased under the provisions of N.J.S.A. 18A:58-37.1 et seq. shall remain the property of the district board of education. Such ownership shall be indicated in each book by a label.

(b) The district board of education shall be responsible for the receipt of the textbooks from the vendor and inventory of such textbooks.

(c) The district board of education may require that the textbooks be returned to the district board of education at the end of the school year, or may enter into agreements with the nonpublic schools to store such books. In the event of such an agreement, the district board of education shall not pay storage charges of any kind to a nonpublic school for this service.

6A:23-6.5 Accounting entries

(a) Expenditures for the purchase of textbooks may include the cost of freight or postage for transporting such books from the vendor to the district board of education.

(b) The cost of textbooks for students enrolled in the public schools shall be entered in the general current expense fund in the account designated in the minimum chart of accounts.

(c) The cost of textbooks for nonpublic school students shall be entered in the special revenue fund in the account designated in the minimum chart of accounts. State aid received by the district board of education pursuant to N.J.S.A. 18A:58-37.1 et seq. shall be recorded separately in the special revenue fund as State aid.

6A:23-6.6 Charge for textbook loss or damage

(a) Each district board of education shall make reasonable rules and regulations governing the loan of textbooks, which may contain requirements for reimbursement by students to the district board of education for damage, loss or destruction of the loaned textbooks.

(b) Such rules and regulations are applicable to both public and nonpublic school students.

SUBCHAPTER 7. MANAGEMENT OF PUBLIC SCHOOL CONTRACTS

6A:23-7.1 Change orders and open-end contracts

(a) Changes in quantities, work performed, services rendered, materials, supplies or equipment delivered or provided shall not be authorized, permitted or accepted, except by the procedures established in this section. All change orders are subject to the following:

1. Each change order shall be in writing and shall be numbered consecutively (beginning with the number one) for each project or contract;

2. Change orders which result in payment reduction below the originally contracted price may be made by locally established procedure, provided that any change orders increasing costs on the same contract shall include reference to such reductions;

3. Quantities of items or work shall not be changed in such a manner as to nullify the effect of the competitive determination of lowest responsible price which was made at the time of contract award, provided that at said time the changes could have been reasonably foreseen; and

4. Responsibility required by this section to be exercised specifically by the district board of education or charter school board of trustees may not be delegated. In those instances in which authority is to be exercised by some school official, the authority, responsibility and required procedures should be clearly spelled out in advance, by resolution.

(b) Orders placed under open-end contracts are not considered change orders for purposes of this section.

(c) Professional and extraordinary unspecifiable services (EUS) contract change orders are governed by the following:

1. Changes shall be within the scope of activities of the original contract, and not for the purpose of undertaking new or different work or projects. Changes in payments for activities within the scope of activities of the contract shall be in accordance with a schedule of specific charges or rates contained in the contract and shall be effectuated by a written change order authorized by the appropriate school official. If such a schedule is not included in the contract, the contract shall be amended to provide for same.

2. If the change is not within the scope of activities of the original contract:

i. If the contract was awarded without competitive bidding being required by law or rule (as in the case for professional services and certain authorized extraordinary, unspecifiable services per N.J.S.A. 18A:18A-5a(2)), any change beyond the original scope of activities may be made by amendatory contract; and

ii. If the consulting contract was not a professional service and was required to be subject to competitive bidding, any change beyond the original scope of activity shall be by new contract based on new bidding.

3. Before authorizing any change order increasing costs, availability of funds shall be certified by the board secretary or responsible employee of the charter school board of trustees.

4. An amendatory contract may be effectuated by the same method required for the authorization of the original contract.

(d) Change orders for contracts for materials, supplies and equipment are governed by the following:

1. Change orders may be used to change the number of units or items originally advertised and contracted for, provided that:

i. Unit prices were sought at the time of advertising and included in the contract; and

ii. The advertising and the contract included a provision that the unit prices could be so used.

2. Change orders may not be used to substantially change the quality or character of the items to be provided, inasmuch as such factors would have been a factor in the original bidding.

3. Such changes shall not cause the originally awarded contract price to be exceeded cumulatively by more than 20 percent net.

4. Before authorizing any change orders increasing costs, availability of funds shall be certified by the board secretary or the responsible employee of the charter school board of trustees.

5. Changes may be effectuated by the school official authorized to serve as purchasing agent, subject to such controls or approval requirements as the district board of education or charter school board of trustees may lawfully impose.

6. Change orders for materials, supplies and equipment items that are part of a contract that is primarily a construction contract shall be handled in accordance with (e) below.

7. Change orders may be authorized by the purchasing agent for price adjustment for petroleum products, provided:

i. There has been a determination by the school board attorney that such a price adjustment is authorized by law;

ii. That the original bidding specifications and contract so authorize;

iii. That an objective price benchmark not under the direct control of the supplier is utilized to establish the price changes, and that the changes are not for the purpose of correcting asserted bidding errors; and

iv. That adequate funds have been certified as being available.

(e) Change orders for construction, reconstruction and major repair contract are governed by the following:

1. Change orders shall be limited to the following types:

i. Emergency occurrences affecting health and safety;

ii. Unforeseeable problems; and

iii. Minor modifications to effect economies, improve service or resolve minor problems.

2. Change orders shall not be made for the following:

i. Changes that materially expand upon the size, nature or scope of the project as it was originally described in the bid specifications; and

ii. Extra work that could reasonably be effectuated by a separately bid contract without duly disrupting the basic work or imposing adverse cost consequences.

3. All change orders for construction, reconstruction, and major repair contracts shall be submitted to the Office of Facilities Financing for approval, except:

i. When an emergency condition requires immediate action, the school official designated by the district board of education or charter school board of trustees to handle emergency purchases per N.J.S.A. 18A:18A-7 may authorize the necessary actions to be taken, but only to the extent necessary to meet the emergency;

ii. Minor field (site) modifications, to the extent normally permitted (method is at local option) may be authorized by the district board of education or charter school board of trustees and appropriate school officials, provided that they do not affect the overall scope of work of the contract; however, if these change orders shall result in an inability to complete the full contracted scope of services without increasing the contracted price, the Office of Facilities Financing shall approve in advance; and

iii. If the awarded contract includes a sum for contingencies, said sum should be encumbered against the appropriation at the outset, and charges against that amount may be authorized by the district board of education or charter school board of trustees, provided that the sum so included does not exceed 20 percent of the overall contract.

4. In those instances where the Office of Facilities Financing approval is necessary, the following procedures shall govern:

i. The authorized school official of the district board of education or charter school board of trustees shall file with the Office of Facilities Financing two copies of the request for the change order, stating the facts involved and indicating that the proposed change order may be allowed under this section. If the request and justification are prepared by other than an official of the district board of education or charter school board of trustees, it shall be countersigned by the authorized school official;

ii. The Office of Facilities Financing shall take steps as it may find appropriate to assure that a change is necessary and that it will actually be carried out;

iii. The Office of Facilities Financing shall be assured that adequate appropriations are available;

iv. If appropriate, the Office of Facilities Financing shall authorize a written amendatory contract to be entered into covering the change(s) to be made. The exact form of this amendatory contract shall be at the discretion of the district board of education or charter school board of trustees; and

v. A copy of the change order authorized marked "Approved" shall be sent to the district board of education or charter school board of trustees for its information and files.

(f) The issuance of purchase orders pursuant to an open-end contract shall be considered to be the carrying out of the contract and not a change order. The following requirements shall apply:

1. Orders under open-end contracts shall not be used for purposes such as changing the quality or character of items to be provided, nor to exceed the maximum number(s) of items or units provided for in the original specifications and contract. Such changes would constitute a change order;

2. The contract shall not be for a period longer than the requirements of N.J.S.A. 18A:18A-1 et seq., the Public School Contracts Law unless specifically authorized by law;

3. The certificate of availability of funds shall be executed each time an order is placed covering the amount of the order, unless the district board of education or charter school board of trustees wishes to commit and certify the full amount at the outset. The certificate must be executed before the district board of education or charter school board of trustees incurs a contractual liability on its part; and

4. Orders shall be placed by the school official authorized to serve as purchasing agent subject to such controls or approval requirements as the district board of education or charter school board of trustees may lawfully impose.

6A:23-7.2 Bonds

(a) A district board of education or charter school board of trustees may require the following bonds:

1. A performance bond;
2. A bid bond; and/or
3. A labor and material bond.

(b) A district board of education or charter school board of trustees may require in the notice to bidders or in the specifications that bidders guarantee that they will enter into a contract with the district board of education or charter school board of trustees and will furnish any prescribed performance bond or other security required as a guarantee or indemnification. The guarantee may be given, at the option of the bidder, by certified check, cashier's check or bid bond. When the guarantee is given in the form of a bid bond, such bid bond shall:

1. Be given by a responsible surety or insurance company licensed to operate in New Jersey. A district board of education or charter school board of trustees is prohibited from requiring that bidders submit a bid bond from a particular surety or insurance company; or

2. Be given by a responsible individual residing in New Jersey. The district board of education or charter school board of trustees may reject such individual bid bond if it is not satisfied with the sufficiency of the individual surety offered.

(c) A bid bond in the form of a certificate, identifying the bidder, whose acts are guaranteed, the name of the surety company, insurance company or individual surety and the district board of education in whose favor the bonds are given.

(d) The "penalty" or "penal sum" on performance bonds, labor and material bonds, and all other such bonds shall be expressed in words and figures as a specific number of dollars and not as a percentage of the bid.

(e) The "penalty" or "penal sum" on performance and labor and material bonds shall be in the amount of 100 percent of the contract price.

6A:23-7.3 Contracts for behind-the-wheel driver education

(a) Contracts with private driver education schools providing behind-the-wheel driver education may be made, negotiated or awarded by a district board of education or charter school board of trustees, for any term not exceeding in the aggregate three years, by resolution at a public meeting without public advertising for bids. Such resolution shall indicate that the private driver education school shall provide behind-the-wheel driver education that is substantially equivalent to that provided by the district board of education or charter school board of trustees at less cost than current or other proposed programs.

(b) Contracts shall only be made, negotiated or awarded with approved private driver education schools. A driver education school holding a current license or certificate of approval issued by the Director of the Division of Motor Vehicles shall be considered as being approved by the Commissioner of Education for the purpose of providing behind-the-wheel driver education. The district board of education or charter school board of trustees shall obtain from the private driver education school a copy of such current license or certificate of approval and maintain the copy on file with the contract.

6A:23-7.4 Joint purchasing systems

A district board of education or charter school board of trustees may by resolution establish joint purchasing systems pursuant to N.J.S.A. 40A:11-11. Such joint purchasing system shall become effective only upon approval of the Director of the Division of Local Government Services in the Department of Community Affairs.