

90
S372
1982
extra

PUBLIC SCHOOL DISTRICT PURCHASING PROGRAMS IN NEW JERSEY:

A REVIEW OF SPECIFIC ISSUES AND PROBLEMS

COMMISSION ON BUSINESS EFFICIENCY OF THE PUBLIC SCHOOLS

FINANCIAL MANAGEMENT SUBCOMMITTEE

AUGUST 1982

New Jersey State Library

COMMISSION ON BUSINESS EFFICIENCY OF THE PUBLIC SCHOOLS

Senator Wayne Dumont, Jr , Chairman
Richard W Harclerode, Vice Chairman

Senator Matthew Feldman
Assemblyman Joseph V Doria, Jr

Glen Marie Brickus
Dr James J Dwyer

P L 1979, Chapter 69 established the Commission on Business Efficiency of the Public Schools and charged the Commission with the responsibility for developing and implementing a five (5) year plan to

- 1 monitor the implementation of recommendations of the Task Force on Business Efficiency of the Public Schools, and
- 2 recommend to the Legislature such statutory changes as may become necessary to facilitate improvements in the business efficiency of public schools

The Commission is also charged with reporting annually to the Governor and the Joint Committee on the Public Schools on the status of the monitoring program mandated by Chapter 69

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| PREFACE | 1 |
| ACKNOWLEDGEMENTS | 11 |
| EXECUTIVE SUMMARY | 1 |
| BACKGROUND | 1 |
| PURPOSE AND METHODOLOGY OF THE STUDY | 2 |
| INTRODUCTION | 2 |
| PART I MAJOR ISSUES | |
| A Bid and Quote Requirements | 3 |
| B Authority to Pay Bills | 4 |
| C Multivear Contracts | 5 |
| D Vendor Prequalification Requirements | 5 |
| CONCLUSION | 6 |
| PART II PROPOSED LEGISLATION | |
| Appendix A - Senate Bill No 1597 - Assembly Bill No 1737 | 8 |
| Senate Bill No 1614 - Assembly Bill No 1741 | 14 |
| Appendix B - Senate Bill No 1606 - Assembly Bill No 1742 | 18 |
| Appendix C - Senate Bill No 1598 - Assembly Bill No 1739 | 20 |
| Appendix D - Senate Bill No 1607 - Assembly Bill No 1740 | 22 |

PREFACE

This study addresses specific issues and problems affecting purchasing procedures in New Jersey public school districts. Specific recommendations are made for revisions in state statutes. These suggested revisions are designed to improve the efficiency and cost effectiveness of local public school district purchasing programs.

Acknowledgements

The Commission on Business Efficiency of the Public Schools wishes to acknowledge those individuals who participated in the preparation of this report

Financial Management Subcommittee

Mr Richard W Harclerode, Chairman, Director of Education
Studies, N J Bell Telephone Company
Honorable Joseph V Doria, Jr , Assemblyman, District 31

Staff

Mr Alan Kooney, Staff Director
Ms Nancy Style, Staff Associate
Ms Marv Gunn, Legislative Analyst
Mrs Gloria R Hendrickson, Secretary

Information Sources

The findings and recommendations presented in this report are those of the Commission on Business Efficiency of the Public Schools and do not necessarily reflect the views of any one of the following individuals or groups who participated in the conduct of this study

Mr William Asterino, Comptroller, Hamilton Township School District
Mr James Bigger, Finance and Accounting, Western Electric
Mr Harold Bills, Executive Director, N J Association of School
Business Officials
Mr Ronald T Brennan, Board Secretary/School Business Administrator,
Millburn Board of Education
Mr Vincent B Calabrese, Assistant Commissioner, Finance and
Regulatory Services N J State Department of Education
Mr Andrew A Corea, Purchasing Agent, Camden City Board of Education
Mr Clifford Doll, Business Administrator, Bayonne Board of Education
Mr Mark Farago, Finance and Accounting, Western Electric
Mr Tony Frascella, Purchasing Agent, City of Trenton
Mr Alfred W Freeland, Acting Executive Director, N J Association
of School Business Officials

Mr William Graver, Sales Representative, J L Hammett Co
Mr Richard Greene, President, Hermitage Press
Mr Herman W Grip, General Manager, J L Hammett Co
Mr Preston H Gunning, Deputy Superintendent, Camden City Board of
Education
Mr Mack Ivory, Purchasing Agent, Jersey City School District
Mr Giulio Mazzone, Supervisor, Purchase Bureau, State of New Jersey
Ms Claire McGrath, Purchasing Agent, Hamilton Township Board of
Education
Mr M Lee Pisauro, School Business Administrator, Somerville Board
of Education
Mr Peter Rosamelia, Assistant Executive Director for Administration,
N J School Boards Association
Mr Bernard Steinfeld, Assistant Deputy Commissioner, N J State
Department of Education
Mr Thomas R Sundstrom, Consultant III, N J State Department of
Education
Mr Louis E Triverio, Assistant Superintendent for Business,
Hamilton Township Board of Education
Mr Joseph Weber, Warren-Balderston Co
Mr D Rav Wenger, N J Education Association

Executive Summary

The Commission on Business Efficiency of the Public Schools has conducted a study on purchasing procedures in New Jersey's local school districts. Based upon this study, the following recommendations are made:

- 1 Amend various sections of N J S 18A 18A as they apply to the bid and quote threshold to
 - a raise the current bid requirement to those purchases exceeding \$7,500,
 - b provide for an adjustment in the bid requirement by the Commissioner of Education every two years,
 - c establish the quote requirement as 20 percent of the bid requirement, and
 - d exempt from the bid procedure certain purchases priced 10 percent below the State contract price (Appendix A)
- 2 Amend various sections of N J S 18A 19 to permit boards of education the option to designate an individual, such as the School Business Administrator, authorized to pay bills in advance of board approval (Appendix B)
- 3 Amend N J S 18A 18A-42 to permit boards of education to enter into contracts exceeding the fiscal year for certain recurring costs (Appendix C)
- 4 Amend various sections of N J S 18A 18A to require qualification of bidders on contracts exceeding \$25,000, and extend such qualification from six months to two years (Appendix D)

The rationale for these recommendations, and benefits that could result from their implementation, are detailed in the following report:

Background

In its 1978 report, "Modern Financial Management '78 An Update for New Jersey Public Schools", the Task Force on Business Efficiency of the Public Schools recommended that certain amendments be made to existing legislation concerned with local school district purchasing. Those recommendations include a recommendation to allow local school boards the option of designating a claims auditor "who would be responsible for verifying that the purchase order and invoice associated with the receipt of goods and services are in proper order, whereupon the district pays the bill." The Task Force also recommended a legislative amendment that would "permit a school district to purchase equipment or supplies without going through the bidding process, if such item(s) can be acquired at a price at least 10 percent (including FOB and cost and freight delivery charges) less than that specified in the State contract."

Task Force suggestions were also made concerning public school district purchasing programs that would not require legislative action. These suggestions included encouraging the practice of joint purchasing programs, and expanding and improving the State contract system.

Following its mandate to "monitor the implementation of recommendations of the Task Force," the Commission on Business Efficiency of the Public Schools determined that a further review of local school district purchasing programs was needed

Purpose and Methodology of the Study

The objectives of this study are to 1) improve the efficiency and cost effectiveness of local public school district purchasing procedures, 2) reduce administrative costs, and 3) increase purchasing dollar effectiveness

The review methodology consisted primarily of interviews with purchasing and business officials and statutory and program research. The interviewing phase involved both group meetings (attended by school officials, purchasing agents, vendors, and statewide educational organizations) and interviews with individuals involved with school, municipal and State purchasing programs. The research phase included a thorough review of existing State laws and regulations with particular emphasis on those laws and regulations that related to issues and problems identified during the interview phase.

Introduction

The 1978 Task Force report recognized that State statutes and/or administrative regulations sometimes prevented school districts from purchasing items at the lowest possible price. It was the goal of this study to identify situations where this occurs, determine why this occurs, and suggest legislative or administrative changes to correct these situations. Therefore, this paper is divided into two parts. The first part will discuss the major issues, the second part will present proposed legislative amendments and/or administrative code revisions.

The task of identifying operational issues and problems related to public school district purchasing was not difficult. Those individuals who are involved with public school district purchasing on a regular basis readily cited many examples of situations in which because of existing laws and procedural requirements, prices higher than necessary were paid. A report that would attempt to discuss all of these problems and issues is presently beyond the capacity of the Commission. This study is designed to deal with four major issues that have been identified. These issues are 1) bid and quote requirements, 2) authority to pay bills, 3) multi-year contracts, and 4) vendor qualification requirements. Following the discussion of these issues, suggested revisions in the Statutes will be presented.

Any discussion of legislation in the field of public purchasing must acknowledge the primary reason such legislation exists - to insure public confidence in the fact that their tax dollars are properly spent. It may be unreasonable to assume that restrictions should or could be completely eliminated. Therefore, the suggested Statutory revisions presented in this report strive to increase local district purchasing discretion and efficiency while, at the same time, maintaining public confidence and trust.

Part I Major Issues

A Bid and Quote Requirements

By law (N J S 18A 18A-4) any purchase, contract or agreement for performance of work or furnishing of similar materials or supplies, or in connection with the same project, which exceeds \$4,500 during any one school year may be made only after public advertising for bids. Exceptions to this provision are found in N J S 18A 18A-5. Quotations are required for any purchase of \$500 or more (N J S 18A 18A-37).

The process of advertising for bids involves costs to school districts, most notable staff time and the cost of public advertising. Therefore, school business officials are concerned about the actual number of items that they must advertise for bids. Two factors that substantially influence the number of purchases exceeding \$4,500 that require bids are inflation and the size of enrollment of the school district.

P L 1980 c 144 increased the bid ceiling from \$2,500 to the current \$4,500. The \$2,500 bid ceiling had been in effect since 1956. Between 1956 and 1982, the averaged New York City Standard Consolidated Area (SCA) and Philadelphia SCA Consumer Price Index (CPI) increased by 198 percent.

Each year the number of contracts exceeding \$2,500 increased, requiring an increase in the amount of advertising for bids and corresponding increases in administrative costs for school districts. In addition vendors' costs often increase when they must include their additional costs incurred during the bidding process. Therefore, a district may pay more for an item when it is bid than when it is not.

The size of the school district enrollment is credited with affecting the purchasing process in two ways. First, the larger the district, the larger the volume of purchases. Therefore, an item such as school supplies may exceed \$4,500 in one district, and not in another. Second, large districts may be able to "beat" the State contract price based on volume, but must advertise bids in order to do so. A district that purchases through the State contract is exempt from the bid requirement.

Based upon this review, two recommendations are made. The first is to amend N J S 18A 18A-4 and N J S 18A 18A-37 to allow more flexible bid and quote ceiling requirements. N J S 18A 18A-4 should be amended to raise the current bid ceiling to \$7,500. This figure was determined by adjusting the \$2,500 bid ceiling by the averaged New York City and Philadelphia CPI since 1956. N J S A 18A 18A-4 should also be amended to require that every two years the Commissioner of Education notify local school districts of an adjusted bid ceiling. This notification should be made by January 1 for the school fiscal year beginning the following July 1. The adjustment to the bid ceiling shall be based on the CPI Legislation such as this would: 1) make the current bid ceiling reflective of current expenses, 2) provide a faster response to economic factors, and 3) allow input from interest groups including local school districts and vendors. In addition, N J S 18A 18A-37 should be amended to set the quote ceiling at 20 percent of the bid ceiling. This would provide continuous flexibility without separate legislation. The current \$500 quotation ceiling is 20 percent of \$2,500 and did not increase when the bid ceiling went to \$4,500.

The second recommendation is to enact the Task Force's recommendation to amend the Public School Contracts Law (P L 1977 c 114) to allow a school district to purchase without bid if after soliciting three quotations, it is found that at least one quotation is at least 10 percent less than the State contract price. This exemption would, of course, apply only to those items previously bid by State contract. The quotation must be at least 10 percent less than the State contract price to protect the integrity of the State contracting system. If only minimal "underbidding" were allowed, vendors would be discouraged from bidding on State contracts.

In addition, the Division of Purchase and Property of the Treasury Department should continue and expand their practice of securing prices indexed for the quantity of goods purchased. For example, one school supply vendor indicated that he would provide a 5 percent discount on orders exceeding \$500. Implementation of this suggestion would lessen the disparity between school districts of varying size.

B Authority to Pay Bills

N J S 18A 18-4 requires that the school district board secretary examine, audit, and certify all claims against the board and present those claims to the board for their approval at regularly scheduled meetings. Therefore, bills can not be paid promptly upon receipt by the school district. This adversely impacts the business efficiency of the schools in two ways. First, it prevents districts from taking advantage of prompt payment discounts. Second, it discourages vendors from doing business with schools, thus limiting competition.

Both school officials and vendors agree and cite examples to demonstrate that school districts often lose the opportunity to receive a prompt payment discount. A review of a State contract shows that several vendors will give a 1-3 percent discount if payment is made within 15 days. However, school districts often must take more than 15 days to pay bills because of the procedure required by N J S 18 19-4. This requirement is not imposed upon municipalities and counties within the State.

Vendors often cite the delay in receiving payment from public school districts as one reason they hesitate to do business with these school districts. This is especially true of small businesses that can least afford to carry these bills. Therefore, the schools are often limited to purchasing from a few large vendors. Limited competition often results in higher prices.

It is recommended that N J S 18A 19-4 be amended to allow the school board the option to appoint an individual, such as the school business officials, superintendent of schools, or a School Board member, to be responsible for approval and payment of bills. In addition, the board, at its option, could set a ceiling on the amount of any bill payable without prior approval of the board. This recommended procedure, which would require the board to review all payments made, would not eliminate the board's role in determining that expenses incurred were consistent with the budget and board policy. However, if the board has established a budget, approved contracts and/or agreements, and the purchase is satisfactorily delivered, they are obligated to pay the bill. Therefore, their approval is often perfunctory, and this recommendation would eliminate unnecessary delay in payments.

C Multiyear Contracts

N J S 18A 18A-42 provides school districts the opportunity to "enter into contract exceeding the fiscal year" for certain goods and services. In general, these multiyear contracts have proven to be beneficial to school districts. School personnel have found, however, that further savings could be made if these provisions were expanded. A good example of this would be to increase from five to ten years the allowable length of a contract for telephone services. This would allow districts to take advantage of fixed cost plans currently available that offer considerable savings over a 10 year period.

One school business administrator recalled an occasion when he was unable to accept a 10 percent discount for a two year contract for a purchase not covered by N J S 18A 18A-42. This example illustrates that considerable savings could be made by employing multiyear contracts. Therefore, it is recommended that N J S 18A 18A-42 be amended to permit boards to contract for any recurring work or the furnishing of materials or supplies for up to two years, or renewable for up to five years, provided the total contractual costs do not increase by more than 20 percent over that period of time. This "renewable contract" would be similar to that provided in N J S 18A 39-3 for school transportation contracts.

In addition to providing a potential for cost savings, this recommendation would provide an incentive to vendors to upgrade equipment and deliver a higher quality of service. Under current conditions, this year's vendor has no assurance that he will be awarded the same contract the following year. Therefore, the vendor might hesitate to invest capital for equipment or employees that may not be needed after one year.

This provision would allow local boards the option to explore the benefits of multiyear contracts for more items. However, it would not require that contracts be for two years. Further, this provision would not alter the requirement of N J S 18A 18A-42 that these contracts "contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause."

D Vendor Prequalification Requirements

One recurring theme in discussions with vendors and school district personnel was the "bureaucratic" procedures involved in dealing with school districts. Complaints include, but are not limited to: 1) confusing, legalistic bid requirements, 2) repeated certification and classification, and 3) delayed payments. As the number of vendors bidding on school contracts decreases, so does the competition among vendors. Therefore, the bids received may not be the lowest possible price that could be available. This problem is most acutely felt in the area of construction. Many small, local contractors whose labor and transportation costs may be lower, may not bid on a project because, after reading a complex bid specification and performance requirements, they may be totally discouraged from bidding or fear that the risk of losing money because of some unusual requirement is too great. Therefore, one method to encourage broad competition for school contracts is to simplify the bid process from the vendors' viewpoint.

Many participants in this study stressed that a major deterrent to many local vendors was the necessity to go through the prequalification procedure. Vendors desiring to do business in excess of \$10,000 with a school district must go through this procedure. Therefore, a vendor must complete the necessary forms every time that vendor bids on a project if more than six months has elapsed since the last bid. The \$10,000 prequalification requirement found in N J S 18A 18A-26 was established by P L 1968, c 188. Between 1968 and 1981, the averaged CPI for the New York City SCA and the Philadelphia SCA increased 134 percent. It is therefore recommended that N J S 18A 18A be amended to require that bidders on contracts exceeding \$25,000 be qualified in accordance with N J S 18A 18A-26.

It is further recommended that N J S 18A 18A-32 be amended to require that bidders submit the necessary qualification statement only once in a two year period as opposed to the current six month requirement. This recommendation is based upon the statements of several school business officials, who indicated that, at best, this qualification procedure provided only general assurances of a vendor's ability to fulfill the contract. Therefore, decreasing the number of times this procedure is required would greatly reduce the paperwork involved for bidders.

Implementation of these recommendations would significantly reduce a major roadblock in school districts' efforts to solicit bids from local contractors. This would not only save school districts scarce dollars, but would also keep local school district money in the community.

Conclusion

Legislation can not address every situation that occurs. During the course of this review, it became clear that school districts vary greatly in their purchasing policies and expertise. Local districts can do much to improve their own situation, and are urged to 1) encourage the professional growth and expertise of their business office staff, 2) develop and/or expand joint purchasing agreements, and, 3) expand the use of State contracts and their cooperation with the State Division of Purchase and Property in addressing school needs.

This paper has presented four major areas for amendment of local school district purchasing procedures. It is not intended that these recommendations alone will be sufficient to eliminate all of the operational difficulties encountered by local boards when trying to make their purchasing procedures and policies as efficient and cost-effective as possible. However, if implemented, these changes could greatly enhance a local board's ability to reduce administrative costs and increase its purchasing dollar effectiveness.

PART II

PROPOSED LEGISLATION

APPENDIX A-D

SENATE, No. 1597

Introduced July 12, 1982
By Senators DUMONT, FELDMAN and EWING

ASSEMBLY, No. 1737

Introduced July 3, 1982
By Assemblymen DORIA, CHARLES, COWAN, JANISZEWSKI,
VAN WAGNER, BOCCINI, ROCCO and PALAIA

AN ACT concerning the threshold requirement for the solicitation of bids pursuant to the "Public School Contracts Law," and amending sections 18A 18A-3, 18A 18A-4, 18A 18A-7, 18A 18A-8, 18A 18A-15, 18A 18A-17 and 18A 18A-45 of the New Jersey Statutes

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey

1 1 N J S 18A 18A-3 amended to read as follows
2 18A 18A-3 Purchases, contracts and agreements not requiring
3 advertising or any purchase or contract or agreement for the per-
4 formance of any work or the furnishing or hiring of materials or
5 supplies, the cost or price of which together with any other sums
6 expended or foreseeably to be expended for the performance of
7 any work or services in connection with the same project or the
8 furnishing of similar materials or supplies during the same fiscal
9 year paid with or out of school funds, does not exceed the total sum
10 of **[\$4,500 00]** \$7,500 00 or the amount determined pursuant to sub-
11 section b of this section, in the fiscal year or, in the case of pur-
12 chases that are not annually recurring, in a period of one year may
13 be made, negotiated and awarded by a contracting agent when so
14 authorized by resolution of the board of education without public
15 advertising for bids and bidding therefor

16 *b Commencing January 1, 1983 and every two years thereafter,*
17 *the Commissioner of Education shall adjust the threshold amount*
18 *set forth in subsection a of this section in direct proportion to the*
19 *rise or fall of the consumer price index for all urban consumers in*

EXPLANATION—Matter enclosed in bold faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law
Matter printed in italics has to new matter

21 *United States Department of Labor The commissioner shall notify*
22 *all local school districts of the adjustment The adjustment shall*
23 *become effective on July 1 of the year in which it is reported*

1 2 N J S 18A 18A-4 is amended to read as follows

2 18A 18A-4. Contracts and agreements requiring advertising
3 Every contract or agreement for the performance of any work or
4 the furnishing or hiring of any materials or supplies, the cost or
5 the contract price whereof is to be paid with or out of school funds,
6 not included within the terms of N J S 18A 18A-3, shall be made
7 and awarded only by the board of education after public advertising
8 for bids and bidding therefor, except as is provided otherwise in
9 this chapter or specifically by any other law

10 No work, materials or supplies shall be undertaken, acquired or
11 furnished for a sum exceeding in the aggregate **[\$4,500 00]** *the*
12 *amount set forth in, or calculated by the Commissioner of Educa-*
13 *tion pursuant to, N J S 18A 18A-3 except by contract or agree-*
14 *ment*

1 3 N J S 18A 18A-7 is amended to read as follows

2 18A 18A-7 Emergency purchases and contracts Any purchase,
3 contract or agreement may be made, negotiated or awarded for a
4 board of education without public advertising for bids and bidding
5 therefor notwithstanding that the cost or contract price will exceed
6 **[\$4,500 00]** *the amount set forth in, or calculated by the Commis-*
7 *sioner of Education pursuant to, N J S 18A 18A-3 when an emer-*
8 *gency affecting the health or safety of occupants of school property*
9 *requires the immediate delivery of the articles or the performance*
10 *of the service, provided that the awarding or making of such pur-*
11 *chases, contracts or agreements are made in the following manner*

12 a A written requisition for the performance of such work or
13 labor, or the furnishing of materials, supplies or services is filed
14 with the contracting agent or his deputy in charge describing the
15 nature of the emergency, the time of its occurrence and the need
16 for invoking this section, certified by the employee in charge of the
17 building, facility or equipment wherein the emergency occurred

18 The contracting agent, or his deputy in charge, being satisfied
19 that the emergency exists, is hereby authorized to award a contract
20 for said work or labor, materials, supplies or services

21 b Upon the furnishing of such work or labor, materials, supplies
22 or services, in accordance with the terms of the contract or agree-
23 ment, the contractor furnishing such work or labor, materials,
24 supplies or services, shall be entitled to be paid therefor and the
25 board of education shall be obligated for said payment The board

26 of education shall take such action as shall be required to provide
27 for the payment of the contract price

28 c The State Board of Education shall prescribe rules and pro-
29 cedures to implement the requirements of this section.

1 4 N J S 18A 18A-3 is amended to read as follows

2 18A 18A-3 Contracts not to be divided. No purchase, contract
3 or agreement, which is single in character or which necessarily or
4 by reason of the quantities required to effectuate the purpose of
5 the purchase, contract or agreement, includes the furnishing of
6 additional services or equipment or buying materials or supplies
7 or the doing of additional work, shall be subdivided, so as to bring
8 it or any of the parts thereof under the maximum price or cost
9 limitation of **[\$4,500 00]** *the amount set forth in, or calculated by*
10 *the Commissioner of Education pursuant to, N J S 18A 18A-3,*
11 thus dispensing with the requirement of public advertising and
12 bidding thereon in purchasing or contracting for, or agreeing for
13 the furnishing of, any services and parts, materials or supplies,
14 the doing of any work included in or incident to the performance
15 or completion of any project, which is single in character or in-
16 clusive of the furnishing of additional services or equipment or
17 buying materials or supplies or the doing of additional work, or
18 which requires the furnishing of more than one article of equipment
19 or buying materials or supplies, or of the services, materials or
20 supplies requisite for the completion of such project shall be in-
21 cluded in one purchase, contract or agreement

1 5 N J S 18A 18A-13 is amended to read as follows

2 18A-18A-13 Separate plans for various types of work, bids,
3 contracts. In the preparation of plans and specifications for the
4 construction, alteration or repair of any building by a board of
5 education, when the entire cost of the work and materials will
6 exceed **[\$4,500 00,]** *the amount set forth in, or calculated by the*
7 *Commissioner of Education pursuant to, N J S 18A 18A-3* sepa-
8 rate plans and specifications shall be prepared for each of the fol-
9 lowing, and all work and materials kindred thereto to be performed
10 or furnished in connection therewith

- 11 a The plumbing and gas fitting work,
- 12 b The heating and ventilating systems and equipment,
- 13 c The electrical work, including any electrical power plant
- 14 d The structural steel and ornamental iron work,
- 15 e All other work and materials required for the completion of
16 the project

17 The board of education or its contracting agent shall advertise
18 for and receive, in the manner provided by law, (1) separate bids

19 for each of said branches of work, and (2) bids for all the work
20 and materials required to complete the building to be included in
21 a single overall contract. There will be set forth in the bid
22 the name or names of, and evidence of performance security from,
23 all subcontractors to whom the bidder will subcontract the
24 furnishing of plumbing and gas fitting, and all kindred work, and
25 of the heating and ventilating systems and equipment, and elec-
26 trical work, structural steel and ornamental iron work, each of
27 which subcontractors shall be qualified in accordance with this
28 chapter.

29 Contracts shall be awarded to the lowest responsible bidder.
30 The contract shall be awarded in the following manner. If the sum
31 total of the amounts bid by the lowest responsible bidder for each
32 branch is less than the amount bid by the lowest responsible bidder
33 for all the work and materials, the board of education shall award
34 separate contracts for each of such branches to the lowest
35 responsible bidder therefor, but if the sum total of the amount
36 bid by the lowest responsible bidder for each branch is not
37 less than the amount bid by the lowest responsible bidder for all
38 the work and materials, the board of education shall award a
39 single overall contract to the lowest responsible bidder for all of
40 such work and materials. In every case in which a contract is
41 awarded under (2) above, all payments required to be made under
42 such contract for work and materials supplied by a subcontractor
43 shall, upon the certification of the contractor of the amount due to
44 the subcontractor, be paid directly to the subcontractor.

1 6 N J S 18A 18A-37 is amended to read as follows

2 18A 18A-37 Award of purchases, contracts or agreements

3 All purchases, contracts or agreements which require public
4 advertisement for bids shall be awarded to the lowest responsible
5 bidder.

6 Prior to the award of any other purchase, contract or agreement,
7 the contracting agent shall, except in the case of the performance
8 of professional services, solicit quotations, whenever practicable,
9 on any such purchase, contract or agreement the estimated cost or
10 price of which is **[\$500 00]** 20% or more, of the amount set forth in,
11 or calculated by the Commissioner of Education pursuant to,
12 N J S 18A 16A-3 and the award thereof shall be made, in accor-
13 dance with N J S 18A 18A-3 or N J S 18A 18A-4, as the case
14 may be, on the basis of the lowest responsible quotation received,
15 which quotation is most advantageous to the board of education,
16 price and other factors considered, provided, however, that if the
17 contracting agent deems it impractical to solicit competitive quota-

18 tions in the case of extraordinary, unspecifiable service, or, in the
19 case of such or any other purchase, contract or agreement awarded
20 hereunder, having sought such quotations determines that it should
21 not be awarded on the basis of the lowest quotation received, the
22 contracting agent shall file a statement of explanation of the reason
23 or reasons therefor, which shall be placed on file with said purchase,
24 contract or agreement

1 7 N J S 18A 18A-45 is amended to read as follows

2 18A 18A-45 Manner and method of sale Any board of educa-
3 tion may, by resolution, authorize the sale of its personal property
4 not needed for school purposes

5 a. If the estimated fair value of the property to be sold exceeds
6 **[\$2,500 00]** *the amount set forth in, or calculated by the Commis-*
7 *sioner of Education pursuant to, N J S 18A 18A-3, in any one*
8 *sale and it is neither livestock nor perishable goods, it shall be sold*
9 *at public sale to the highest bidder*

10 b Notice of the date, time and place of the public sale, together
11 with a description of the items to be sold and the conditions of
12 sale, shall be published once in a legal newspaper Such sale shall
13 be held not less than seven nor more than 14 days after the publi-
14 cation of the notice thereof

15 c Personal property may be sold to the United States, the
16 State of New Jersey, another board of education or to any body
17 politic by private sale without advertising for bids

18 d If no bids are received the property may then be sold at
19 private sale without further publication or notice thereof, but in
20 no event at less than the estimated fair value, or the board of
21 education may if it so elect reoffer the property at public sale
22 As used herein, "estimated fair value" means the market value of
23 the property between a willing seller and a willing buyer less the
24 cost to the board of education to continue storage or maintenance
25 of any personal property not needed for school purposes to be
26 sold pursuant to this section

27 e A board of education may reject all bids if it determines such
28 rejection to be in the public interest In any case in which the
29 board of education has rejected all bids, it may readvertise
30 such personal property for a subsequent public sale If it elects to
31 reject all bids at a second public sale, pursuant to this section, it
32 may then sell such personal property without further publication
33 or notice thereof at private sale, provided that in no event shall
34 the negotiated price at private sale be less than the highest price
35 of any bid rejected at the preceding two public sales and provided
36 further that in no event shall the terms or conditions of sale be
37 changed or amended.

39 exceed **[\$2,500 00]** *the amount set forth in, or calculated by the*
40 *Commissioner of Education pursuant to, N J S 18A 18A-3, in*
41 *any one sale or is either livestock or perishable goods, it may be*
42 *sold at private sale without advertising for bids*
1 8 This act shall take effect immediately

STATEMENT

This bill increases the bid threshold for "Public Schools Contracts Law" from \$4,500 00 to \$7,500 00

It also directs the Commissioner of Education to adjust the threshold commencing January 1, 1983, effective July 1, 1983 and every two years thereafter, in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and Philadelphia areas as reported by the United States Department of Labor

This bill is one of a series of bills implementing the July, 1982 report of the Financial Management Subcommittee of the Commission on Business Efficiency of the Public Schools

SENATE No. 1514

Introduced July 22, 1982
By Senators DUMONT, FELDMAN and EWING

ASSEMBLY No. 1741

Introduced July 8, 1982
By Assemblymen NAPLES, DORIA, CHARLES, COWAN, JANIS-
ZEWSKI, VAN WAGNER, BOCCINI and PALAIA

AN ACT concerning exceptions to the requirement for advertising for bids pursuant to the "Public School Contracts Law," and amending N J S 18A 18A-5

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey

1 1 N J S 18A 18A-5 is amended to read as follows

2 18A 18A-5 Exceptions to the requirement for advertising Any
3 purchase, contract or agreement of the character described in
4 N J S 18A 18A-4 may be entered into, negotiated or awarded by the
5 board of education or any committee thereof without public
6 advertising for bids and bidding as follows:

7 a. The subject matter of the contract consists of

8 (1) Professional services,

9 (2) Extraordinary unspecifiable services which cannot reason-
10 ably be described by written specifications which exception as to
11 extraordinary unspecifiable services shall be construed narrowly in
12 favor of open competitive bidding where possible and the State
13 Board of Education is authorized to establish rules and regula-
14 tions limiting its use in accordance with the intention herein
15 expressed, and the board of education shall in each instance state
16 supporting reasons for its action in the resolution awarding the
17 contract for extraordinary unspecifiable services,

18 (3) The doing of any work by employees of the contracting unit,

19 (4) The printing of all legal notices, and legal briefs, records
20 and appendices to be used in any legal proceeding in which the
21 contracting party may be a party,

22 (5) Textbooks copyrighted materials, kindergarten supplies,

Matter printed in italics was added as new matter

24 (6) Food supplies, including food supplies for home economic
25 classes, when purchased pursuant to rules and regulations of the
26 State board and in accordance with the provisions of N J S.
27 18A 18A-6,

28 (7) The supplying of any product or the rendering of any service
29 by a public utility, which is subject to the jurisdiction of the Board
30 of Public Utility Commissioners, in accordance with the tariffs and
31 schedules of charges made, charged and exacted, filed with said
32 board,

33 (8) The printing of bonds and documents necessary to the issu-
34 ance and sale thereof by a board of education,

35 (9) Equipment repair service if in the nature of an extraordinary
36 unspecifiable service and necessary parts furnished in connection
37 with such services

38 (10) Insurance, including the purchase of insurance coverage
39 and consultant services

40 (11) Publishing of legal notices in newspapers as required by
41 law,

42 (12) The acquisition of artifacts or other items of unique,
43 intrinsic, artistic or historic character

44 (13) Electrical expenses, including advertising expenses inci-
45 dental thereto

46 b It is to be made or entered into with the United States of
47 America, the State of New Jersey and any municipality or any
48 board, body, officer, agent or authority of any other state or sub-
49 division thereof

50 c The board of education has advertised for bids pursuant to
51 N J S 18A 18A-4 on two occasions and has received no bids in
52 response to its advertisement and after reasonable inquiry, it is
53 determined that no board, body, officer, agent or authority of the
54 United States, or of the State of New Jersey or of any county or
55 municipality in which the board of education is located is willing
56 and able to perform any work or furnish or hire any materials or
57 supplies in conformity with the specifications of the board of
58 education Any such contract or agreement entered into pursuant
59 to this subsection may be made negotiated or awarded only upon
60 adoption of a resolution by the affirmative vote of two-thirds of
61 the full membership of the board of education at a meeting thereof
62 authorizing such a contract or agreement Any amendment or
63 modification of the terms, conditions, restrictions and specifications
64 which were the subject of the competitive bidding pursuant to
65 N J S 18A 18A-4 shall be stated in the resolution awarding the
66 contract.

67 d. The board of education has advertised for bids pursuant to
68 N J S 18A 18A-4 on two occasions and has rejected such bids on
69 each occasion because the board of education has determined that
70 they are not reasonable as to price on the basis of cost estimates
71 prepared for the board of education prior to the advertising
72 therefor or have not been independently arrived at in open compe-
73 tition, but no such contract or agreement may be entered into after
74 such rejection of bids, unless

75 (1) Notification of the intention to negotiate and a reasonable
76 opportunity to negotiate shall have been given by the board of
77 education to each responsible bidder,

78 (2) The negotiated price is lower than the lowest rejected bid
79 price of a responsible bidder who bid thereon and is the lowest
80 negotiated price offered by any responsible supplier and is a rea-
81 sonable price for such work materials, supplies or services,

82 (3) Any amendment or modification of the terms, conditions,
83 restrictions and specifications which were the subject of competitive
84 bidding pursuant to N J S 18A 18A-4 shall be stated in the reso-
85 lution awarding the contract, and

86 (4) The negotiated price is lower than the price of the same or
87 equivalent materials or supplies available from the State, county
88 or municipality in which the board of education is located.

89 Whenever a board of education shall determine that a bid was
90 not arrived at independently in open competition pursuant to this
91 subsection 4 of N J S 18A 18A-5, it shall thereupon notify the
92 county prosecutor of the county in which the board of education is
93 located and the Attorney General of the facts upon which its
94 determination is based, and when appropriate, it may institute
95 appropriate proceedings in any State or federal court of compe-
96 tent jurisdiction for a violation of any State or federal antitrust
97 law or laws relating to the unlawful restraint of trade

98 *e* The board of education has solicited and received at least
99 three quotations on materials, supplies or equipment for which a
100 State contract has been issued pursuant to N J S 18A 18A-10,
101 and the lowest responsible quotation is at least 10% less than the
102 price the board would be charged for the identical material, supplies
103 or equipment, in the same quantities, under the State contract

104 Any such contract or agreement entered into pursuant to this
105 subsection d or subsection e may be made negotiated or awarded
106 only upon adoption of a resolution by the affirmative vote of two-
107 thirds of the full membership of the board of education at a meeting
108 thereof authorizing such a contract or agreement

1 2 This act shall take effect immediately

STATEMENT

This bill allow boards of education to award contracts for materials, equipment and supplies for which there is an existing State contract, without advertising or receiving bids if they solicit and receive at least three quotations, and the lowest responsible quotation is at least 10% less than the State contract price for identical goods in the same quantities

This bill is one of a series of bills implementing the July, 1982 report of the Financial Management Subcommittee of the Commission on Business Efficiency of the Public Schools

STATE OF NEW JERSEY

SENATE No. 1606

Introduced July 12, 1982
By Senators FELDMAN, DUMONT and EWING

ASSEMBLY No. 1742

Introduced July 8, 1982
By Assemblymen ROCCO, SHUSTED, DORIA, CHARLES, JANIS-
ZEWSKI, NAPLES, VAN WAGNER, BOCCHINI and PALAIA

**AN ACT concerning school board expenditure procedures, amend-
ing sections 18A 19-1, 18A 19-2 and 18A 19-4 of the New
Jersey Statutes, and supplementing chapter 19 of Title 18A of
the New Jersey Statutes**

1 *BE IT ENACTED by the Senate and General Assembly of the State*
2 *of New Jersey.*

1 L N J S 18A 19-1 is amended to read as follows

2 18A 19-1 The money or funds of the board in the custody of
3 the treasurer of school moneys shall be expended by such treasurer
4 by, and only by, warrants, each made payable to the order of the
5 person entitled to receive the amount thereof and specifying the
6 object for which is issued, signed by the president and secretary
7 of the board and by such treasurer of school moneys,

8 (a) After audit of the account or demand to be paid, by the
9 secretary, and after approval by the board, or

10 (b) In accordance with payrolls duly certified as provided by
11 this title, or

12 (c) For debt service, or

13 (d) *When provided by resolution of the board, after audit of the*
14 *account or demand to be paid, and approval by a person desig-*
15 *nated by the board*

1 2 N J S 18A 19-2 is amended to read as follows

2 18A 19-2 No claim or demand against a school district shall be
3 paid by the treasurer unless it is authorized by law and the rules
4 of the board of education of the district is fully itemized and
5 verified, has been duly audited as required by law, has been

Matter printed in italics thus is new matter

6 presented to, and approved by, the board at a meeting thereof, or
7 *presented to, and approved by a person designated by the board*
8 *for that purpose*, and the amount required to pay the same is
9 available for said purpose

1 3 N J S 18A 19-4 is amended to read as follows

2 18A 19-4. All claims and demands against the board, except
3 such as are to be paid from funds derived from athletic events or
4 other activities of pupil organizations, shall, *unless otherwise*
5 *provided by resolution of the board*, be examined, audited and
6 certified, in writing, by the secretary and presented by him to the
7 board for its approval at a regularly called meeting and if found
8 to be correct, shall be ordered paid by the board, whereupon the
9 secretary and the president of the board shall issue and sign a
10 warrant in payment therefor. The secretary thereupon shall for-
11 ward such warrant to the treasurer of school moneys of the district

1 4. (New section) A board of education may, by resolution,
2 designate a person in addition to the secretary to audit any
3 account and demand to be paid, and provide for approval of such
4 account or demand by such person or the secretary prior to pres-
5 entation to the board. Any such approval shall be presented to the
6 board at their next meeting for ratification. The board may
7 establish a maximum dollar amount for which payment may be
8 authorized without prior board approval

1 5 This act shall take effect immediately

STATEMENT

This bill would allow school boards to designate a person, in addition to the board secretary, to audit accounts and demands for payment, and to approve certain accounts and demands prior to presentation to the board.

This bill is one of a series of bills implementing the July, 1982 report of the Financial Management Subcommittee of the Commission on Business Efficiency of the Public Schools

SENATE, No. 1538

Introduced July 12, 1982
By Senators DUMONT, FELDMAN and EWING

ASSEMBLY, No. 1739

Introduced July 8, 1982
By Assemblymen DORIA, CHARLES, COWAN, JACKMAN, JANIS-
ZEWSKI, NAPLES, BOCCHINI, ROCCO and PALAIA

AN ACT concerning the duration of certain contracts subject to
the "Public School Contracts Law," and amending N J S
18A 18A-42

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey

1 1 N J S 18A 18A-42 is amended to read as follows

2 18A 18A-42 Duration of certain contracts Any board of edu-
3 cation may enter into a contract exceeding the fiscal year for the
4 a Supplying of

5 (1) Fuel for heating purposes, for any term not exceeding in
6 the aggregate, three years, or

7 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles
8 or equipment for any term not exceeding in the aggregate, three
9 years, or

10 b The plowing and removal of snow and ice for any term not
11 exceeding in the aggregate, three years, or

12 c. The collection and disposal of garbage and refuse, for any
13 term not exceeding in the aggregate, three years, or

14 d. Data processing service, for any term of not more than five
15 years, or

16 e Insurance, for any term of not more than three years, or

17 f Leasing or servicing of automobiles, motor vehicles, electronic
18 communications equipment, machinery and equipment of every
19 nature and kind, for any term not exceeding the aggregate five
20 years, provided, however, such contracts shall be entered into only
21 subject to and in accordance with rules and regulations promul-
22 gated by the State Board of Education,

EXPLANATION—Matter enclosed in bold faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law
Matter printed in italics *thus* is new matter

SENATE, NO: 1607

Introduced July 12, 1982
By Senators FELDMAN, DUMONT and EWING

ASSEMBLY, NO. 1740

Introduced July 8, 1982
By Assemblymen CHARLES, DORIA, COWAN, JACKMAN, JANIS-
ZEWSKI, BRYANT, WATSON, NAPLES, BOCCHINI, ROCCO
and PALAIA

AN ACT concerning the qualification of bidders pursuant to the
"Public School Contracts Law," and amending sections
18A 18A-15, 18A 18A-26, 18A 18A-27 and 18A 18A-32 of the
New Jersey Statutes

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey*

1 1 N J S 18A 18A-15 is amended to read as follows

2 18A 18A-15 Specifications generally Any specifications for an
3 acquisition under this chapter, whether by purchase, contract or
4 agreement, shall be drafted in a manner to encourage free, open
5 and competitive bidding In particular, no specifications under
6 this chapter may

7 a. Require any standard, restriction, condition or limitation not
8 directly related to the purpose, function or activity for which the
9 purchase, contract or agreement is made, or

10 b Require that any bidder be a resident of, or that his place
11 of business be located in, the county or school district in which the
12 purchase will be made or the contract or agreement performed,
13 unless the physical proximity of the bidder is requisite to the
14 efficient and economical purchase or performance of the contract or
15 agreement, or

16 c Discriminate on the basis of race, religion, sex, national
17 origin, or

18 d Require, with regard to any purchase, contract or agreement,
19 the furnishing of any "brand name," but may in all cases require
20 "brand name or equivalent," except that if the materials to be
21 supplied or purchased are patented or copyrighted, such materials

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law
Matter printed in italics thus is new matter

23 g The supplying of any product or the rendering of any service
24 by a telephone company which is subject to the jurisdiction of the
25 Board of Public [Utility Commissioners] Utilities for a term not
26 exceeding five years,

27 h Materials, supplies or services that are required on a recur-
28 ring basis from year to year, for any term not exceeding in the
29 aggregate two years, however, such contract may be renewed yearly
30 for a period not exceeding three additional years without any fur-
31 ther solocitation for bids or bidding upon a finding by the board
32 that the services are being performed in an effective and efficient
33 manner, or that the materials and supplies continue to meet the
34 original specifications If a board of education elects to renew an
35 existing contract, the terms and conditions of the existing contract
36 shall remain substantially unchanged and any increase in the con-
37 tract cost over the three year period shall be no greater than a
38 total of 20% over the initial cost

39 All multyear leases and contracts entered into pursuant to this
40 section 18A 18A-42 except contracts for the leasing or servicing of
41 equipment supplied by a telephone company which is subject to the
42 jurisdiction of the Board of Public [Utility Commissioners] Utili-
43 ties shall contain a clause making them subject to the availability
44 and appropriation annually of sufficient funds as may be required
45 to meet the extended obligation, or contain an annual cancellation
46 clause.

1 2. This act shall take effect immediately.

STATEMENT

This bill permits boards of education to enter into contracts for the purchase of materials, supplies or services that are required on a recurring basis, for terms not exceeding two years. It also provides that such contract may be renewed yearly after its initial term for up to three additional years. However, the cost of the new contract may not be increased more than a total of 20% above the initial cost over the three years additional duration.

This bill is one of a series of bills implementing the July, 1982 report of the Financial Management Subcommittee of the Commission on Business Efficiency of the Public Schools

9 which may fix the qualifications required according to the
10 financial ability and experience of the bidders and the capital and
11 equipment available to them pertinent to and reasonably related to
12 the class or category of work to be performed or materials and
13 supplies to be furnished or hired in the performance of any such
14 contract, and may require each bidder to furnish a statement
15 thereof

16 Such regulations shall be written in a manner

17 a Which will not unnecessarily discourage full, free and open
18 competition, or

19 b Which will not unnecessarily restrict the participation of small
20 business in the public bidding process, or

21 c Which will not create undue preferences, or

22 d Which will not violate any other provision of this chapter,
23 or any other law

24 No qualification rating of any bidder shall be influenced by his
25 race, religion, sex, national origin, nationality or his place of
26 residence or residence

27 In lieu of adopting any qualification regulation under this section,
28 the State Board may, in whole or in part, delegate by regulation to
29 the Department of the Treasury or other appropriate State agency
30 with its consent, the authority to qualify bidders subject to this
31 article

32 "Department," as used in this article, shall mean the Depart-
33 ment of Education, Department of the Treasury or other State
34 agency to which the authority to qualify bidders has been delegated
35 by the State Board

36 Such regulations shall not be effective unless they have been
37 adopted as provided in the Administrative Procedure Act, P L
38 1968, c 410 (C 52 14B-1 et seq)

1 4 N J S 18A 18A-32 is amended to read as follows

2 18A 18A-32 Bidders not submitting statements, within **[six**
3 **months]** *two years* ineligible to bid, affidavit of no change in status
4 to accompany bid, reports as to performance, etc No person shall
5 be qualified to bid on any public work contract with the board of
6 education, the entire cost whereof will exceed **[\$10,000 00]**
7 **\$25,000 00**, who shall not have submitted a statement as required by
8 N J S 18A 28 within a period of **[six months]** *two years* preceding
9 the date of opening of bids for such contract Every bidder shall
10 submit with his bid an affidavit that subsequent to the latest such
11 statement submitted by him there has been no material adverse
12 change in his qualification information except as set forth in said
13 affidavit

1 5 This act shall take effect immediately

22 or supplies may be purchased by specification in any case in which
23 the resolution authorizing the purchase, contract, sale or agree-
24 ment so indicates, and the special need for such patented or copy-
25 righted materials or supplies is directly related to the performance,
26 completion or undertaking of the purpose for which the purchase,
27 contract or agreement is made, or

28 e Fail to include any option for renewal, extension, or release
29 which the board of education may intend to exercise or require,
30 or any terms and conditions necessary for the performance of any
31 extra work, or fail to disclose any matter necessary to the sub-
32 stantial performance of the contract or agreement

33 The specifications for every contract for public work, the entire
34 cost whereof will exceed ~~[\$10,000 00]~~ \$25,000 00 shall provide that
35 the board of education, through its authorized agent, shall upon
36 completion of the contract report to the department as to the con-
37 tractor's performance, and shall also furnish such report from time
38 to time during performance if the contractor is then in default

39 Any specification adopted by the board of education which know-
40 ingly excludes prospective bidders by reason of the impossibility
41 of performance, bidding or qualification by any but one bidder,
42 except as provided herein, shall be null and void and of no effect
43 and such purchase, contract or agreement shall be readvertised,
44 and the original purchase, contract or agreement shall be set aside
45 by the board of education

1 2. N J S 18A.18A-26 is amended to read as follows

2 18A 18A-26. Classification of bidders as requisite to bidding
3 Every board of education shall require that all persons proposing
4 to bid on any contract requiring public advertisement for bids with
5 the board for public work, the entire cost whereof will exceed
6 ~~[\$10,000 00]~~ \$25,000 00, shall first be classified in accordance with
7 article 6 of this chapter as to the character and amount of public
8 work on which they shall be qualified to submit bids So long as
9 such requirement is in effect, the board of education shall accept
10 such bids only from persons qualified in accordance with such
11 classification

1 3. N J S 18A 18A-27 is amended to read as follows

2 18A 18A-27 Authority of State Board of Education to adopt
3 regulations providing for qualification of bidders The State Board
4 of Education may establish reasonable regulations appropriate
5 for controlling the qualifications of prospective bidders upon con-
6 tracts for public work, the entire cost whereof will exceed
7 ~~[\$10,000 00]~~ \$25,000 00, by the amount, class or category of work to
8 be performed or materials and supplies to be furnished or hired

This bill increases the minimum value of a contract which would require qualification of bidders as a requisite to bidding pursuant to the "Public School Contracts Law", from \$10,000 00 to \$25,000 00. It also would extend the life of bidder's qualification statements from six months to two years.

This bill is one of a series of bills implementing the July, 1982 report of the Financial Management Subcommittee of the Commission on Business Efficiency of the Public Schools
