

Terror in the Board Room: The Bid-Opening Process

By James Shoop

Please raise your hands if you have been to a bid opening! Now, take one of those hands and cover your mouth because you should be yawning about now.

Remember, we are talking about a bid opening here. It is not exciting, but competitive bids and the bid-opening process are the cornerstones of public school purchasing.

The bid-opening process does not begin on the day of the bid opening. It begins with good planning by the purchasing agent to ensure that the advertised bid complies with the public school contracts law. In New Jersey, that raises the following questions:

- Did the purchasing agent properly advertise the bid?
- Was the bid advertised for a Monday or the day after a public holiday?
- Were the bid specifications drafted to ensure “free, open, and competitive bidding”?

Although state laws may vary, I’ll use these points as a foundation for this discussion of best practices for the bid-opening process.

In the Beginning

A good business practice is to have all bids addressed to the purchasing agent but actually received by someone else in the business office. Auditors call this “segregation



of duties,” an important part of the auditing process. All bids should be recorded upon receipt (date and time stamped) and kept in a locked cabinet until the bid-opening date.

Try to hold the bid opening in an open meeting area spacious enough to accommodate a large number of people. According to New Jersey law, the purchasing agent must receive the bids publicly and announce the bid contents publicly.

Understand that the bid opening is a public function, and anyone may attend. As a matter of fact, you want people to attend to show that everything is being done correctly. However, more often than not, a bid opening will not be well attended and so is a lonely process.

Always have a witness with you at a bid opening. As John Short of the National Association of State Procurement Officials writes in *The Contract Cookbook for Purchase of Services* (1990): “A bid opening is a duet, that is, the purchasing manager must team with another person. . . . This is not to prevent loneliness . . . but to ensure a witness to the proceedings.”

The witness at the bid opening could be the recording clerk who assists the purchasing agent with the tasks involved to ensure a smooth process.

Open the Bids!

Well, it’s time to unseal the bids. Are you prepared? My assistant Lydia Agosto takes pride in our always being prepared for our bid openings. Here’s our checklist:

Tools/implements. Do you have a small bid box that contains paper clips, pens, and scissors or a letter opener? Some vendors are really sincere about submitting a “sealed envelope.”

Attendance sheet. I recommend that you prepare an attendance sheet for sign in. Have the attendees print and sign their names and identify the company or law enforcement agency they represent.

Whose time? So it is 11:00 a.m. and you are ready to open the bids. But whose 11:00 a.m. is it? Is it the clock on the wall? Your watch? How about the vendor’s watch? You may want to either bring your cell phone and use its readout or call the local time recording—(area code) 976-1616.

Opening remarks! The purchasing agent takes control of the bid opening. At the advertised time, the purchasing agent asks whether there are any more bids. If there are none, the purchasing agent states loudly that he or she will accept no more bids. In the same breath, the purchasing agent tells the attendees that the bids received will be opened in alphabetical order (best way) and that at the conclusion of the bid opening, the bids will be available for public inspection. (More on this later.)

A final note about remarks: The bid-opening process tends to be very boring. If you feel the need to tell a joke or make a quip to liven up the occasion—don’t! You

would be very surprised how the tone of a bid opening can change when a bidder learns that he or she lost a \$50,000 bid by \$10, and you are there joking around. Always keep your bid opening professional.

The bid opening. According to New Jersey law, the purchasing agent receives and unseals all bids (NJSA 18A:18A-21[b]). No architects, board members, superintendents, or directors of facilities touch or open bids.

The law also requires the purchasing agent to “publicly announce the contents” of the bid (NJSA 18A:18A-21[b]). It is therefore important that the purchasing agent read all prices aloud and inform the public of the documents that were submitted by each bidder. Have your witness keep a checkoff sheet to record the documents submitted by the bidders.

If only you and the witness attend a bid opening, must you still read the prices submitted aloud? Find out!

Sometimes, a particular bidder will not submit certain required and requested bid documents. Perhaps the documents that were submitted were unsigned or incomplete. You can be sure the competition at the bid opening will quickly point this out to you.

When there appears to be a deficiency in a particular vendor’s bid or another bidder questions you, do not offer an opinion. Let the public know that you will contact the board attorney, and it will be his or her responsibility to offer an opinion about whether a particular bid has a deficiency or material defect.

The purchasing agent can prepare a resolution recommending that the board of education reject the bid as being nonresponsive. But the purchasing agent should not be the final authority when it comes to having the board reject bids.

At the conclusion of a bid opening, invite the public to review the bids—one bid at a time. This measure is a step toward developing trust with all vendors. You have nothing to hide; this is a public process. In most cases, the losing vendors will ask to see the bids if the prices are close.

The Three What ifs

The guiding principle for receiving bids in New Jersey is as follows: “No bids shall be received after the time designated in the advertisement” (NJSA 18A:18A-21[b]). However, things do happen! I call them “the three what ifs.” After reading them, you may think of others. That’s what makes our job so interesting.

1. What if a bid is hand delivered to the bid opening after the advertised time? You are in the middle of a bid opening, and a vendor walks in late and tries to submit his bid. He is very apologetic and offers a litany of excuses: There was no parking! I got lost in the building! I received the wrong directions to the bid opening area! There was traffic on the parkway/turnpike!

You know the excuses! What do you do?

Politely refuse to accept the bid. Do not become a typical bureaucrat by being stern, strict, and callous. The key word is “politely”!

Remember, you have no choice in this matter.

2. **What if a bid is received via mail or a delivery service after the advertised date and time?**
 - Don’t open the bid!
 - Record the date and time you received it on the front the bid envelope (date and time stamp).
 - Make a copy of the front of the bid envelope and put the copy in the bid folder.
 - Mail the unopened bid back to the vendor with a letter of explanation. (You may want to call the vendor if you so desire.)
3. **What if the bid is delivered to a receptionist before the advertised date and time, but you receive it after the advertised date and time?** Years ago in Passaic, five vendors showed up our bid opening and submitted bids. They remained for the entire process to watch the results. After the bid opening, I returned to my office, and guess what was on my desk? Another bid! The substitute receptionist received the bid an hour before the advertised time but failed to inform me.

I contacted our board attorney, and he advised me to go to the boardroom with my witness and open the newly found bid. He then advised me to take up prayer.

Why prayer? What would happen if the newly found bid was the lowest bid? Would the other bidders who remained for the entire process believe me, or would they think something was amiss?

I unsealed the bid, and divine intervention prevailed. It was not the lowest bid.

The “terror” in the bid-opening process is not being properly prepared. Organize yourself to make a bid opening what it was designed to be: boring!

Reference

Short, J. 1990. *The contract cookbook for purchase of services*. 2nd ed. Lexington, KY: National Association of State Procurement Officials.

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The advertisement features a movie theater setting. A large screen displays the text: "Now Playing More than 75 Hours of Professional Development". In the foreground, a ticket is shown. The ticket has an orange border and contains the following text: "ADMIT ONE", "Your Ticket to Professional Development—Year-round", "From school finance to facilities management to leadership development—the Live Learning Center captures key issues in every aspect of school business management. Stay current in school business while you sit at your desk.", and the website "www.asbintl.org". The ASB logo is also present on the ticket.