

Chapter 29

PROCUREMENT POLICY

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[HISTORY: Adopted by the Board of Trustees of the Village of Greenport 12-9-1993; amended in its entirety 4-25-2011 by L.L. No. 5-2011. Subsequent amendments noted where applicable.]

§ 29-1. Determination of type of purchase; competitive bidding.

A. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good-faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year. The following items are not subject to competitive bidding pursuant to § 103 of the General Municipal Law:

- (1) Purchase contracts that are for \$20,000 or less and public works contracts that are for \$35,000 or less.
- (2) Emergency purchases.
- (3) Certain municipal hospital purchases.
- (4) Goods purchased from agencies for the blind or severely handicapped.
- (5) Goods purchased from correctional institutions.
- (6) Purchases under state and county contracts.
- (7) Surplus and secondhand purchases from another governmental entity.
- ~~(8)~~ Purchase contracts that are from sole source providers, a sole source provider being a provider or vendor that has been determined to be the only source of the goods or services that are to be obtained or provided.

~~(8)~~(9) Contracts for personal services.

B. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, documentation from manufacturers, contractors, suppliers or vendors, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate. If the purchase is approved or the contract is awarded by a resolution of the Board of Trustees, the resolution shall state the reason why the purchase was not subject to competitive bidding.

§ 29-2. Methods for securing goods and services.

A. All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances:

- (1) Purchase contracts over \$20,000 and public works contracts over \$35,000 (which are subject to competitive bidding).
- (2) Goods purchased from agencies for the blind or severely handicapped pursuant to § 175-b of the State Finance Law.
- (3) Goods purchased from correctional institutions pursuant to § 186 of the Correction Law.
- (4) Purchases under state contracts pursuant to § 104 of the General Municipal Law.
- (5) Purchases under county contracts pursuant to § 103, Subdivision 3, of the General Municipal Law.
- (6) Purchases pursuant to § 29-4 of this chapter.

~~(7)~~ Purchases from a sole-source provider.

~~(8)~~ Purchases under State contracts, pursuant to General Municipal Law §104.

~~(7)(9)~~ Purchases under county contracts, pursuant to General Municipal Law §103(3).

B. The following method of purchase will be used when required by this chapter in order to achieve the highest savings:

- (1) Purchase contracts.

Estimated Amount of Purchase Contract

Method

\$2,500 to \$9,999

2 written quotations

\$10,000 to \$20,000

3 written quotations or written requests for quotations

- (2) Public works contracts.

Estimated Amount of Public Works Contract

Method

\$3,000 to \$4,999

2 written quotations

\$5,000 to \$19,999

2 written quotations

\$20,000 to \$35,000

3 written quotations or written requests for quotations

C. A good-faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

C.

§ 29-3. Documentation required.

- A. Documentation is required of each action taken in connection with each procurement.
- B. Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the award will achieve savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

§ 29-4. Proposals.

- A. All proposals shall be made by the Clerk of the Village or the Clerk's designee. All proposals shall require a response by a specified date and time, and late proposals will neither be accepted nor considered. The Village may reject any and all quotes. All quotes shall be submitted to the Clerk in a sealed envelope. On the face of the envelope there shall be written the person or entity submitting the quote and the proposal to which the quote is in response. All quotes shall remain in the sealed envelope until the time and date specified in the proposal, and no quote thereafter shall be considered. Nothing herein requires solicitation of quotes be in writing. The Village may reject all quotes.
- B. No officer or employee of the Village shall solicit or accept quotes pursuant to these guidelines except the Village Clerk or the Clerk's designee.
- C. The Village Clerk ~~may~~ shall maintain a list of individuals and entities from which proposals shall be solicited whenever proposals are solicited pursuant to this chapter, ~~and the Village Procurement Guideline Solicitation List.~~¹
- D. The Village Procurement Guideline Solicitation List shall contain the name, address, telephone number and area of expertise of any person or entity which notifies the Village, in writing, to the attention of the Village Clerk, that the person or entity desires to be included upon the list. Such writing shall set forth the name, address, telephone number and area of expertise with respect to which the person or entity desires to receive proposals from the Village.
- E. Whenever proposals are sought by the Village pursuant to these procurement guidelines and the work or goods to be procured fall within an area of expertise identified on the Village Procurement Guideline Solicitation List, then in that event, every person or entity on the list with expertise in the area for which proposals are sought shall be invited by the Village to submit a proposal. Nothing herein shall prohibit the Village from soliciting proposals from persons or entities not on the list.

§ 29-5. Exceptions.

Pursuant to General Municipal Law §~~104-b~~, ~~Subdivision 2f~~, the procurement policy may contain circumstances when, or types of procurement for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality. In the following circumstances, it may not be in the best interests of the Village of Greenport to solicit quotations or document the basis for not accepting the lowest bid:

- A. Professional services or services requiring special or technical skill, training or expertise except that the Village of Greenport recognizes that while professional services are exempt from competitive bidding requirements, that in order to insure that the Village receives the best value when procuring these services, whenever practicable will seek additional quotes for these services.
 - (1) The individual or company must be chosen based on accountability, reliability, responsibility,

1. Editor's Note: This list is on file in the office of the Village Clerk.

skill, education and training, judgment, integrity and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price, and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures. In determining whether a service fits into this category, the Village of Greenport shall take into consideration the following guidelines:

- (a) Whether the services are subject to state licensing or testing requirements.
 - (b) Whether substantial formal education or training is a necessary prerequisite to the performance of the services.
 - (c) Whether the services require a personal relationship between the individual and municipal officials.
- (2) Professional or technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer or architect engaged to prepare **or review** plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management or art work; management of municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of prepackaged software.
- B. Emergency purchases pursuant to § 103, Subdivision 4, of the General Municipal Law. Due to the nature of this exception, these goods and services must be purchased immediately. "Emergency" is defined as an urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk. A failure to properly and timely plan in advance for a procurement, which then results in a situation in which normal procurement practices cannot be followed, will not constitute an emergency. This section does not preclude alternate proposals if time permits.
- C. Purchases of surplus and secondhand goods from any source. If alternate proposals are required, the Village of Greenport is precluded from purchasing surplus and secondhand goods at auctions or through specific advertised sources where the best prices of used goods and a lower price may indicate an older product.
- D. Goods or services under \$2,500. The time and documentation required to purchase through this chapter may be more costly than the item itself and would therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.
- E. Sole-source purchases and contracts. Where competition would otherwise be required, but is not feasible due to the sole-source, single-source or emergency nature of a commodity or service, the Village must be able to justify and document the selection of the vendor and establish the reasonableness of the price. In accordance with the State Finance Law, exceptions to the general requirement for competitive selection shall only be made under unusual circumstances. The Village must maintain written justification supporting the sole-source, single-source or emergency determination.

§ 29-6. Purchase orders.

- A. Purchase orders must be obtained for all purchases over \$100.
- B. Purchase orders must be obtained (dated) prior to the invoice date.

- C. In the event that, due to time constraints, a purchase order is not obtained prior to purchase, a written justification for the absence of said purchase order must be submitted with the voucher for payment.
- D. Expenditures for utility, phone, and professional services are exempt from purchase orders.

§ 29-7. Requests for bids and proposals.

- A. Requests for bids and proposals are required for all purchase contracts in excess of \$20,000 and public works contracts in excess of \$35,000, and are encouraged for all other contracts and purchases where practicable.
- B. All requests for bids and proposals shall be in standard Village form, shall comply with the New York State General Municipal Law as to minimum or substantive requirements, and shall contain the following language: "The Village of Greenport is an equal opportunity employer and does not discriminate on the basis of race, color, creed, ancestry, disability or handicap, marital/financial status, military status, religion, sex, sexual orientation, age or national origin with respect to employment or any employment-related matter, and the Village of Greenport requires that all contractors participating in contracts for public work in the Village of Greenport and all subcontractors of those contractors comply with that same requirement and evidence that compliance to the Village of Greenport by providing an affidavit to that effect. The Village of Greenport encourages bids for public works and other contracts with the Village of Greenport and subcontractors of the bidders for those contracts by minority- and women-owned contractors and entities, and the Village of Greenport will solicit bids and contracts from such entities with respect to the public work noticed herein."

§29-8. Best Value.

Notwithstanding any other provision of this policy with respect to purchase contracts (including for purchase of service work), and pursuant to the provisions of General Municipal Law §103(1), the Village may award such purchase contracts to a responsive and responsible bidder or offeror on the basis of "best value".