

NYCOM SAMPLE PROCUREMENT POLICY

Section 104-b of the General Municipal Law, effective January 1, 1992, requires all municipalities and districts therein to adopt procurement policies for goods and services which are not required by law to be publicly bid. The procurement policy must be adopted by a resolution of the governing body. The governing body must solicit comments from the officers in the municipality involved in the procurement process before adoption of the policy and from time to time thereafter. Each municipality should consider its own particular circumstances in developing the policy and the manner in which goods and services are purchased in your municipality. This sample policy contains the absolute minimum required by state law. It should only serve as a basis for the adoption of your municipal purchasing policy. Other than the \$10,000 and \$20,000 bid limits, the monetary amounts contained in the policy are only suggestions and are not mandated amounts contained in state law.

The policy must address the procedure for purchasing goods and services which do not exceed the bid limits of \$10,000 for purchase contracts and \$20,000 for public works contracts. This policy will also apply to any exceptions to competitive bidding whether statutory or common law.

SAMPLE PROCUREMENT POLICY

WHEREAS, Section 104-b of the General Municipal Law requires the governing body of every municipality to adopt a procurement policy for all goods and services which are not required by law to be publicly bid, and

WHEREAS, comments have been solicited from all officers in the [CITY/VILLAGE] involved in the procurement process, now, therefore, be it

RESOLVED, that the [CITY/VILLAGE] of [NAME] does hereby adopt the following procurement policy which is intended to apply to all goods and services which are not required by law to be publicly bid.

PROCUREMENT POLICY FOR THE [CITY/VILLAGE] of [NAME]

1. 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 Section 103 of the General Municipal Law: purchase contracts under \$10,000 and public works contracts under \$20,000;

emergency purchases; certain municipal hospital purchases; goods purchased from agencies for the blind or severely handicapped; goods purchased from correctional institutions; purchases under State and county contracts; and surplus and second-hand purchases from another governmental entity.

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, 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.

2. 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: purchase contracts over \$10,000 and public works contracts over \$20,000; goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law; goods purchased from correctional institutions pursuant to Section 186 of the Correction Law; purchases under State contracts pursuant to Section 104 of the General Municipal Law; purchases under county contracts pursuant to Section 103(3) of the General Municipal Law; or purchases pursuant to subdivision 6 of this policy:

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

<u>Estimated</u> <u>Amount of Purchase Contract</u>	<u>Method</u>
\$500 - \$2,999	2 verbal quotations

\$3,000 - \$9,999	3 written/fax quotations or written request for proposals
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<u>Estimated Amount</u> <u>of Public Works Contract</u>	<u>Method</u>
\$500 - \$2,999	2 verbal quotations

\$3,000 - \$4,999	2 written/fax quotations
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\$5,000 - \$19,999	3 written/fax quotations or written request for proposals
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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.

4. Documentation is required of each action taken in connection with each procurement.

5. 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.

6. Pursuant to General Municipal Law Section 104-b(2)(f), the procurement policy may contain circumstances when, or types of procurements 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 [CITY/VILLAGE] of [NAME] 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. The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgement, 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 [CITY COUNCIL/BOARD OF TRUSTEES] 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; and (c) whether the services require a personal relationship between the individual and municipal officials. 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 plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing 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 pre-packaged software.

b. Emergency purchases pursuant to Section 103(4) of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or

welfare of the residents. This section does not preclude alternate proposals if time permits.

c. Purchases of surplus and second-hand goods from any source. If alternate proposals are required, the [CITY/VILLAGE] is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

d. Goods or services under \$500. The time and documentation required to purchase through this policy 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.

7. This policy shall go into effect January 1, 1992 and will be reviewed annually.