

Chapter 25: PROCUREMENT POLICY

Article I

HISTORY: Adopted by the Village Board of the Village of South Blooming Grove

§ 25-1. Procurement Policy.

This chapter shall be referred to as the Procurement Policy for the Village of South Blooming Grove.

§ 25-2. Review of purchase type; competitive bidding; documentation.

- 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: purchase contracts under \$20,000 and public works contracts under \$35,000; 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 secondhand purchases from another governmental entity.
- 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, 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.

§ 25-3. Requests for proposals; exceptions.

All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures favoritism will be avoided and that goods will be purchased at the lowest price, except in the following circumstances: purchase contracts over \$20,000 and public works contracts over \$35,000; goods purchased from agencies for the blind or severely handicapped pursuant to § 162-1b of the State Finance Law; goods purchased from correctional institutions pursuant to § 186 of the Correction Law; purchases under state contracts pursuant to § 104 of the General Municipal Law; purchases under county contracts pursuant to § 103, Subdivision 3 of the General Municipal Law; or purchases pursuant to § 25-7 of this chapter.

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§ 25-4. Method of purchase.

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

(1) Purchase contract.

Estimated Amount

Purchase Contract Method

\$500 - \$2,999
2 verbal quotations

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

(2) Public works contract.

Estimated Amount

Public Works Contract Method

\$500 - \$2,999
2 verbal quotations

\$3,000 - \$4,999
2 written/fax quotations

\$5,000 - \$34,999
3 written/fax quotations or
written request for
proposals

B. 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.

§ 25-5. Documentation required.

Documentation is required for each action taken in connection with each procurement.

§ 25-6. Awarding of contracts.

(1) 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.

(2) Award to other than low bidder.

A. The lowest responsible bidder shall be awarded a purchase or public works contract unless the Village determines that it is in the best interest of the Village and its taxpayers to make an award to other than the low bidder through use of the "best value" option or the "piggybacking" option set out below. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

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B. Best value purchasing. Pursuant to General Municipal Law section 103, the Village may award certain purchase contracts and contracts for services using the "best value" standard, as follows:

(1) Definition. For purposes of this section, "best value" means the basis for awarding contracts for purchases and services to the offeror that optimizes quality, cost, and efficiency, among responsive and responsible offerors.

(2) Applicability. The "best value" option may be used for purchase contracts involving an expenditure of more than \$20,000 and contracts for services involving an expenditure of more than \$35,000, but excluding purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the State Labor Law and excluding any other contract that may in the future be excluded under state law from the best value option. If the dollar thresholds of General Municipal Law section 103 are increased or decreased in the future by the State Legislature, the dollar thresholds set forth herein shall be deemed simultaneously amended to match the new General Municipal Law thresholds.

(3) Standards for best value. Goods and services procured and awarded on the basis of best value are those that the Village Board determines will be of the highest quality and most cost-efficient in the long term. The determination of quality and cost-efficiency shall be based on objectively quantified and clearly described and documented criteria, which may include, but shall not be limited to, any or all of the following: product or service features, quality, durability, reliability, product performance criteria, quality of craftsmanship, cost and extent of maintenance, useful lifespan, availability of replacement parts, availability of maintenance contractors, warranties, proximity to the end user if distance or response time is a significant factor, references, past performance, organization and staffing, and financial capabilities, and any other factors deemed relevant by the Village Board. Such basis may also identify a quantifiable factor for offerors that are small businesses, certified minority or women-owned business enterprises or service-disabled veteran-owned business enterprises, as defined in the Executive Law, to be used in evaluation of offers for awarding contracts for services.

(4) Documentation. Whenever any contract is awarded on the basis of best value instead of lowest responsible bidder, the basis for determining best value shall be thoroughly and accurately documented.

(3) Award to lowest responsible bidder; Piggybacking exception

"Piggybacking" is permissible as an exception to the general bidding requirements set forth in subdivisions one, two and three of General Municipal Law section 103, and section 104 of the General Municipal Law. Consistent with General Municipal Law section 103, subdivision 16, the Village Board may make purchases of apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment and supplies, may make such purchases, or may contract for such services related to the installation, maintenance, or repair of apparatus, materials, equipment or supplies as may be required through the use of a contract let by the United States of America or any Agency thereof, any State or any other political subdivision or district therein if such contract was let to the lowest responsible bidder or on the basis of best value and made available for use by other governmental entities.

§ 25-7. Exemptions from solicitation

Pursuant to General Municipal Law § 104-b, Subdivision 2f, 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 be not in the best interests of the Village of

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South Blooming Grove 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.

(1) The individual or company must be chosen based on accountability, reliability, responsibility, 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.

(2) In determining whether a service fits into this category, the Board of Trustees shall take into consideration the following guidelines: whether the services are subject to state licensing or testing requirements; whether substantial formal education or training is a necessary prerequisite to the performance of the services; and 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 prepackaged software.

B. Emergency purchases pursuant to § 103, Subdivision 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 secondhand goods from any source. If alternate proposals are required, the Village is precluded from purchasing surplus and secondhand 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.

§ 25-8. Annual review

This policy shall go into effect immediately and will be reviewed annually.

§ 25-9. Separability

If any provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered. This shall not affect or impair the validity of the remainder of this Local Law for the application thereof to other persons or circumstances, and the Board of Trustees of the Village hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

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§ 25-10. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

§ 25-11. Effective Date

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.