

Village of Fairport
Office of Community + Economic Development

31 South Main Street
Fairport, New York 14450

PROCUREMENT POLICY

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The Office of Community + Economic Development (OCED) 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.

1. Competitive Bidding

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 \$ 20,000
- 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
- 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. Supplier Selection Criteria

Whenever prudent and cost-effective, utilization of New York State and/or Monroe County contracts through which OCED may procure goods/services at the same price and terms as provided in those contracts shall be encouraged. All other 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 \$ 20,000
- Public Works contracts over \$ 35,000
- 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 pursuant to subdivision 6 of this policy

3. Method of Purchase

In compliance with this policy, the following methods of purchase will be used to achieve the highest savings:

<u>Estimated amount of purchase contract</u>	<u>Method</u>
\$ 500 - \$ 2,999.99	Verbal quotations/written notations
\$ 3,000 - \$ 19,999.99	Written/fax quotations or written request for proposals

<u>Estimated amount of Public Works contract</u>	<u>Method</u>
\$ 500 - \$ 2,999.99	Verbal quotations/written notations
\$ 3,000 - \$ 4,999.99	Written/fax quotations
\$ 5,000 - \$ 34,999.99	Written/fax quotations or written request for proposals

A good faith effort shall be made to obtain a minimum of three 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. Under no circumstances shall the failure to obtain the proposals be a barrier to the intended procurement.

4. Documentation

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

Documentation and an explanation are 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 lowest cost offeror was not responsible. A determination that the lowest cost offeror was not responsible shall be made by the purchaser, approved in writing by the supervisor of the purchaser, and may not be challenged under any circumstances.

5. Special Circumstances

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 interest of OCED to solicit quotations or document the basis for not accepting the lowest bid:

- a. Professional services or services requiring a special or technical skill, training or expertise. 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.

In determining whether a service fits into this category, the Board of Directors 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
- 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 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
 - Communication media development services involving extensive writing, editing or art work
 - Management of municipally owned property
 - Customized computer software or programming services that require substantial modification of pre-packaged software or newly developed solutions.
- b. Emergency purchases pursuant of Section 103 (4) of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately as 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, OCED 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 \$ 250. The time and documentation required to purchase through this policy may be more costly than the item itself. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

6. Other Requirements

- a. All bidders must submit with any bid a Statement of Non-Collusion in the form approved by the Agency (see attachment).
- b. All procurement solicitations shall include a summary of the Agency's procurement policies and prohibitions in a clear and concise manner, so any bidder or provider of goods or services is aware of the requirements for being considered as well as being awarded any bid.
- c. The person authorized to be the contact for the Agency in all procurement matters shall be as set forth in PAL Section 139-j(2)(a) and activities of such contact person shall be reviewed on at least an annual basis by the Agency to make certain said contact person is in full compliance with all provisions of law concerning procurement of goods and services.
- d. No proposed provider of goods or services to the Agency shall be permitted to

have any unauthorized contact with the Agency in contravention of PAL Section 139-j(10). Each employee or representative of the Agency shall report any such unauthorized contact immediately to the Agency's general counsel. Said general counsel shall investigate any such allegation of unauthorized contact and report in writing the findings to the Agency's Executive Director and Chairperson of the Governance Committee.

7. Validity

This policy shall go into effect as of March 1, 2011 and will be reviewed annually.

Non-Collusion Affidavit of Prime Bidder/Subcontractor

State of _____)
County of _____)
City of _____)

_____, being the first duly sworn, deposes and says that:

1. He/she is _____ of _____
(Owner, partner, etc.) (Company)

the Bidder that has submitted the attached Bid;

2. He/she is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

3. Such Bid is genuine and is not a collusive or sham Bid;

4. Neither the said Bidder nor any of its officers, partners, owners, subcontractors, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm or person to submit a sham Bid in connection with the Contract for which the attached Bid has been submitted, or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix price or prices in the attached Bid or of any other Bidder, or to fix overhead, profit or cost element of the bid price or the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement an advantage against the *Fairport Office of Community + Economic Development*, or the owner of the property interested in the proposed contract;

5. No member of the Agency's or the Village's Board of Directors, or any person in the employ of the Village or the *Fairport Office of Community + Economic Development* is directly or indirectly interested in the bid, or the work to which it relates, or in any portion of the profits thereof; and,

6. The price of prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees or parties in interest including this affiant;

8. I am/The Bidder is not indebted to the *Fairport Office of Community + Economic Development* in any form or manner.

Signature: _____

Date: _____

Title: _____

Witness: _____