



Town of Moira
P.O. Box 150
522 County Route 6
Moira, NY 12957
(518) 529-6080
www.townofmoirany.org

Town of Moira, New York PROCUREMENT AND SURPLUS POLICY

Every purchase to be made must be initially reviewed by the Town Department Head and/or the Purchaser to determine whether it is a purchase contract or public works or service 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 total 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 Fiscal Year. 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 quotes from vendors, a memo from the purchaser explaining the decision, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances leading to an emergency purchase, or any other written documentation that is appropriate.

A. SUBJECT TO OPEN COMPETITIVE BIDDING

Purchases over \$20,000.00 (Aggregated Annually)

Public Work Contracts over \$35,000.00

1. Pursuant to New York State General Municipal Law §103 (GML 103) all contracts for public work involving an expenditure of more than thirty-five thousand dollars (\$35,000.00) and all purchase contracts involving an expenditure of more than twenty thousand dollars (\$20,000.00), shall be awarded through an open competitive bid process by the Town Board to the lowest responsible bidder furnishing the required security after advertisement for sealed bids. Purchases of commodities, services or technology shall not be artificially divided for the purpose of avoiding competitive bidding procedures.
2. Open competitive bidding shall be achieved by publishing advertisements in the Town's official newspaper and on the Town's website. Such advertisement shall contain a statement of the time and place where all bids received pursuant to such notice will be publicly opened and read and where the identity of all offerors will be publicly disclosed. Whenever a contract is awarded to someone other than the lowest responsible offer, documentation and an explanation are required. This documentation will include an explanation of how the award will receive savings or how the offeror was not responsible. A determination that the



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offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

B. NOT SUBJECT TO OPEN COMPETITIVE BIDDING

Purchases under \$20,000.00

Public Work Contracts under \$35,000.00

Individual goods or services under \$1000 - 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 minimus contracts would be awarded based on favoritism. However, it is recommended that whenever possible that the Town try to obtain three(3) comparison bids/prices, or purchase off State, County or cooperative contracts to realize the best price.

In addition,

Exceptions to GML 103:

- a. Best Value Law (GML 103, subdivision 1). Best value is defined for this purpose as a basis for awarding contracts to the offeror which optimizes quality, cost and efficiency, among responsive and responsible offerors. To use this exception to GML 103 two requirements must be met:
 - i. The offeror is responsive and responsible.
 - ii. The best value determination must be made on objective and quantifiable standards that the offer optimizes quality, cost, and efficiency. Written justification is required if an award is made based on best value instead of the lowest responsible bidder.
- b. Emergency Situations. In the case of a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of the Town, require immediate action which cannot await competitive bidding or competitive offering, contracts for public work or the purchase of supplies, material or equipment may be let with Town Supervisor approval. When at all possible, quotations shall be obtained for the emergency services. The emergency situation must be thoroughly documented.
- c. Surplus and Second-hand Items. Surplus and second-hand supplies, material or equipment may be purchased without competitive bidding or



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- competitive offering from the federal government, the state of New York or from any other political subdivision, district or public benefit corporation.
- d. Piggybacking Law (GML 10, subdivision 16). This addition authorizes the purchase of apparatus, materials, equipment and supplies, and related installation, repair, and maintenance of those items through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision or district there in given the contract was made available for use by other governmental entities. To use this exception to GML 103 three prerequisites must be met:
- i. The contract must have been let by the United States or any agency thereof, any state or any other political subdivision or district therein.
 - ii. The contract must have been made available for use by other governmental entities.
 - iii. The contract must have been let to the lowest responsible bidder or the basis of best value in a manner consistent with this section.
- e. *State Contracts*. Service contracts entered into through the New York State Office of General Services. In these instances, the State has already investigated and secured the lowest possible price for the municipality.
- f. *Professional Services*. Pursuant to General Municipal Law §104-b(2)(f), 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 Town of Moira to solicit quotations or document the basis for not accepting the lowest bid:
- i. 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, 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 Town Board shall take into consideration the following guidelines:
 1. Whether the services are subject to State licensing or testing requirements; and



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2. whether substantial formal education or training is a necessary prerequisite to the performance of the services; and
 3. 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; printing services involving extensive writing, editing or art work; management of municipality owned property; and computer software or programming services for customized programs, or services involved in substantial modifications and customizing of prepackaged software.
- g. *Sole Source*. When the subject of a contract is controlled by a sole source so that there is no possibility of competition, and the purposes of competitive bidding would not be furthered by inviting bids, competitive bidding is not required. This exception is only applicable in limited circumstances when, in the public interest, particular goods or services are required that uniquely serve the public interest for which there is no substantial equivalent and that are, in fact, available from only one source. The mere likelihood that only one firm will bid, however, is insufficient to justify sole source procurement. Further, the Town may not artificially create a sole source situation such as by, without proper justification, tailor bid specifications to limit competition to only one bidder or brand.
- h. *Goods purchased from agencies for the blind or severely handicapped*.
1. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

Estimated Amount of Purchase Contract
\$1,000.00 - \$4,999.99

Method*
Verbal Quotations
Written Quotations or
Written Request for Proposals
A minimum of three (3)



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\$5,000.00 - \$19,999.99

Method*

Written Quotations or
Written Request for Proposals
A minimum of three (3)

Estimated Amount of Public Work Contract Method

\$2,500.00 - \$4,999.99

Verbal Quotations
Written Quotations or
Written Request for Proposals
A minimum of three (3)

\$5,000.00 - \$34,999.99

Written Quotations or
Written Request for Proposals
A minimum of three (3)

**Written includes physical paper, faxed or emailed quotes.*

A good faith effort shall be made to obtain three (3) 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.

Documentation and an explanation are required whenever a contract is awarded to other than the lowest responsible offer. This documentation will include an explanation of how the award will receive 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. Documentation is required for each action taken in connection with the procurement.

C. PRIOR POLICY OR PROCEDURES:

This policy replaces and supersedes any prior policy or procedures on this subject matter and becomes effective immediately upon adoption by the Town Board.



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D. ANNUAL REVIEW AND AMENDMENTS

The Town Board shall review this procurement and surplus policy annually, and it shall have the power to amend this policy at any time.