

CHAPTER 50

PROCUREMENT POLICY

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[HISTORY: Adopted by the Town Board of the Town of Henderson 2-23-1994. Amendments noted where applicable.]

GENERAL REFERENCES

Investment policy — See Ch. 27.

Payment policy — See Ch. 42.

§50-1. Evaluation of purchases.

- 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 \$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 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 town official making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchasing official indicating how the decision was arrived, a copy of the contract or purchase order, a memo from the town official detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

§ 50-2. Requests for proposals or quotations; 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 that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchases under \$500; goods purchased from agencies for the blind or severely handicapped pursuant to § 175-b of the State Finance

Law;¹ 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 § 50-6 of this chapter.

§ 50-3. Methods of purchase.

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

Estimated Purchase Amount	Method
\$500 to \$2,500	3 verbal quotations
\$2,501 to \$19,999	3 written quotations

B. A good-faith effort shall be made to obtain the required number of proposals or quotations. If the purchasing town official is unable to obtain the required number of proposals or quotations, that official 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.

§ 50-4. Documentation.

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

§ 50-5. Awards to other than lowest offeror.

Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offered. This documentation will include an explanation of how the award will achieve savings, how the offered was not responsible or why the offer was not responsive, determination of which may not be challenged under any circumstances.

§ 50-6. Circumstances not requiring quotations or award to lowest bidder.

In the following circumstances it is not in the best interests of the Town of Henderson to solicit quotations or document the basis for not accepting the lowest bid.

A. Professional services.

- (1) Services requiring special or technical skills, 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

¹ Editor's Note: Section 175-b of the State Finance Law was repealed by L.1995, c.83 § 33. See now § 162, Subdivision 6, of the state Finance Law.

procedures. In determining whether a service fits into this category, the Town Board 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 attorneys, services of physicians, services of engineers, securing insurance coverage, services of accountants, 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 services. It is not in the best interests of the town to solicit alternate proposals for 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 because a delay 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. Secondhand goods. It is not in the best interest of the town to solicit alternate proposals for the purchases of surplus and secondhand goods. If alternate proposals are required, the town 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. Under \$500. Any goods or services under \$500 need not be purchased competitively. The time and documentation required to purchase through this policy may be more costly than the item in this type of circumstance and would therefore not be in the best interests of the taxpayer.

§ 50-7. Effective date; annual review.

This policy shall go into effect on February 9, 1994, and will be reviewed annually.