

PROCUREMENT POLICY
VILLAGE OF TARRYTOWN

1. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract, public works contract 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 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 following items are not subject to competitive bidding pursuant to Section 103 of the New York State General Municipal Law:

- a. purchase contracts under \$20,000 (amended 9/20/10)
- b. public works contracts under \$35,000 (amended 3/1/10)
- c. emergency purchases
- d. certain municipal hospital purchases
- e. goods purchased from agencies for the blind or severely handicapped
- f. goods purchased from correctional institutions
- g. purchases under State and County contracts
- h. surplus and second-hand purchases from another governmental entity (note: purchases over \$10,000 of used, surplus or second-hand materials and equipment should be subject to public bid and advertised as such.)

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, 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:

- a. purchase contracts over \$20,000 and public works contracts over \$35,000
- b. goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law
- c. goods purchased from correctional institutions pursuant to Section 186 of the Correction Law
- d. purchases under State contracts pursuant to Section 104 of the General Municipal Law
- e. purchases under County contracts pursuant to Section 103(3) of the General Municipal Law
- f. 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: (amended on 7/15/2002)

Estimated Amount of Purchase Contract

Method

\$1,000 - \$1,999

A minimum of 2 written/fax/emailed quotations, which shall be recorded by the Department Head and maintained in a separate purchasing file

\$2,000 - \$19,999 (amended 9/20/2010)

A minimum of 3 written/fax/emailed quotations or responses to a Request for Proposals issued by the Village

\$20,000 and above (amended 9/20/2010)

Subject to publicly advertised bid. The bid shall be circulated to a minimum of 3 prospective bidders. Award of bid and contract associated with the bid must be approved by the Board of Trustees.

The Village may require electronic bid submission for technology contracts (amended 9/20/2010).

Estimated Amount of Public Works Contract

Method

\$1,000 - \$1,999

A minimum of 2 written/fax/emailed quotations, which shall be recorded by the Department Head and maintained in a separate purchasing file

\$2,000 - \$34,999

A minimum of 3 written/fax/emailed quotations or responses to a Request for Proposals issued by the Village

\$35,000 and above

Subject to publicly advertised bid. The bid shall be circulated to a minimum of 3 prospective bidders. Award of bid and contract associated with the bid must be approved by the Board of Trustees.

A Purchase Order shall be issued for any purchase of a single item or the same items with a total value of \$2,000 or more. The Purchase Order must be approved by the respective Department Head for purchases between \$2,000 and \$5,000. The Purchase Order must be approved by the Village Administrator or the Village Treasurer for purchases over \$5,000. The signature of the Village Administrator or the Village Treasurer and the date of the signature shall be included on the Purchase Order. Should the purchase of an item(s) from a State or County contract meet these thresholds, a Purchase Order shall be issued which shall clearly note the specific contract number from the State or County contract.

A good faith effort shall be made to obtain the minimum number of proposals or written/fax/emailed 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 or quotations. 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. Documentation shall be maintained either in a separate purchasing file in each department or attached to the paperwork associated with the purchase in the Treasurer's Office. The documentation retained in a file in the respective department shall be maintained in a manner where it is easy to distinguish the purchase with the invoice/bill in the Treasurer's Office.

5. All Fire Department building and vehicle maintenance and repairs will be the responsibility of the Fire Chief. All Fire Department purchases and contracts totaling one-thousand (\$1,000.00) or more must be pre-approved prior to purchase by requisition authorized by the Village Administrator or the Village Treasurer. All purchases and contracts shall be fully compliant with this Procurement Policy. (Amended on 12/02/2002) (Amended on 10/15/12) (Amended on 9/3/13)

6. Documentation and an explanation are required whenever a contract is awarded or a purchase made to a vendor/offendor other than the lowest responsible offeror. This documentation will include an explanation of how the award will achieve savings or how the lowest offeror was not responsible. A determination that the offerer is not responsible shall be made by the purchaser and may not be challenged by the offeror under any circumstance.

7. 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 Board of Trustees, the solicitation of alternative proposals or quotations will not be in the best interest of the Village. In the following circumstances it may not be in the best interests of the Village of Tarrytown to solicit quotations or document the basis for not accepting the lowest responsible 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, 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 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 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 alternative 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 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 \$1,000. The time and documentation required to purchase through this

policy may be more costly than the item 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.

8. This policy shall go into effect immediately upon adoption by the Board of Trustees and will be reviewed annually.

Dates of Amendments

March 18, 2002
July 15, 2002
December 2, 2002
March 1, 2010
September 20, 2010
July 18, 2011
October 15, 2012
September 3, 2013

**VILLAGE OF TARRYTOWN
PROCUREMENT FORM**

For purchases between \$1,000 and \$2,000:

1. Department to obtain a minimum of 2 written/fax/email quotations from vendors
2. Department to complete Procurement Form and enter into Accounts Payable system
3. Attach quotations to Procurement Form
4. Based upon results of solicitation of vendors, department directs work to be completed or purchase to be consummated.
5. Upon completion of work or purchase of item, submit: a) Invoice from vendor and
b) Completed Procurement Form

For purchases between \$2,000 and \$5,000:

1. Purchase Orders are required for purchases of \$2,000 or more
2. Department to obtain a minimum of 3 written/fax/email quotations from vendors
3. Department to complete Procurement Form and Purchase Order (PO)
4. Attach quotations to Procurement Form
5. PO to Department Head for approval of completed PO
6. Approved Procurement Form and PO entered into Accounts Payable system by department
7. Accounts Payable system will automatically encumber the funds from the PO
8. Department directs work to be completed or purchase to be consummated

For Purchases over \$5,000:

1. Department to obtain a minimum of 3 written/fax/email quotations from vendors
2. Department to complete Procurement Form and Purchase Order (PO)
3. Attach quotations to Procurement Form
4. PO to Department Head for approval of completed PO
5. PO to Village Administrator or Village Treasurer for approval of completed PO
6. Approved Procurement Form and PO entered into Accounts Payable system by department
7. Accounts Payable system will automatically encumber the funds from the PO
8. Department directs work to be completed or purchase to be consummated

Purchases from State or County contracts do not require the completion of this form. If the purchase exceeds the thresholds noted above, a PO must be completed and the State or County contract number shall be noted on the PO.

Department: _____ Total Request \$ _____ PO # _____
Budget Code(s): 1) _____ 2) _____ 3) _____
Funds Available: Y/N _____ Current Budget Amt. Available: _____
Fixed Asset (Yes/No): _____

Page 2



Discussion



Opns St Comp, 1981 No. 81-267 (N.Y.St.Cptr.), 1981 WL 16840

New York State Comptroller

NYCPTR Opn No. 81-267

August 11, 1981

TO: MR. I. DAVID BERGRIN, ASS'T SUPERINTENDENT FOR BUSINESS
LEVITTOWN UNION FREE SCHOOL DISTRICT

***1 General Municipal Law, § 103**

General Municipal Law, § 103(4)

1. PUBLIC CONTRACTS—BIDS—PROCEDURE WHEN NO BIDS RECEIVED

2. PUBLIC CONTRACTS—EMERGENCIES—CRITERIA FOR DETERMINING EXISTENCE OF

Where a school district has in good faith duly advertised for bids and received none, it should re-advertise in newspapers of broader circulation and directly contact vendors. If still no bids are received, it would seem that the goods or services could then be secured on the open market.

The declaration of an emergency for the purposes of dispensing with competitive bidding requirements is, in the first instance, a matter of local determination to be made, in most instances, by the local governing board.

We have received an inquiry concerning competitive bidding for the construction of an egress to a below ground music suite in a school district building. The school district advertised for bids once and received no responses. We are asked whether the school district may now proceed to contract for the construction without formally re-advertising for bids, to assure that the building will be completed prior to the opening of school in September.

Section 103 of the General Municipal Law, which generally governs competitive bidding procedures for municipalities and school districts, does not specify the procedure to be followed in the event there is advertising for bids and **no bids** are received. In addition, we are aware of no court determination in this regard. However, the Legislature certainly did not intend that a municipality or school district would be required to indefinitely re-advertise for bids or be estopped from acquiring the necessary goods or services in those cases where, after advertising in good faith, **no bids** were received. Thus, we have suggested that, in a situation where a municipality or school district has in good faith duly advertised for bids and received **no bids**, it should re-advertise in its official newspaper or other newspaper designated for such purpose, advertise in other newspapers having broader circulations, and directly contact vendors who are known to handle the items or perform the type of work sought. Where these steps are taken and still **no bids** are received, it is our opinion that the municipality or school district would have in good faith complied with competitive bidding requirements and it is doubtful that the courts, under such circumstances, would require the municipality or school district to pursue to its detriment the empty gesture of re-advertising for new bids (Opns St Comp, 1978, No. 78-523, unreported; Opns St Comp, 1973, No. 73-814, unreported; 28 Opns St Comp, 1972, p 125).

While following these suggested guidelines would seem to be the most prudent course of action in most instances, as indicated above, we are aware of no statutorily or judicially mandated procedure for situations where **no bids** are initially received. In a given instance, inquiries made by a governing board might indicate that advertising a second time and contacting vendors directly would prove fruitless and it may wish to dispense with these additional procedures. If the board's actions are challenged, it is possible that a court would hold that competitive bidding procedures had been fully complied with in good faith. However, we are not in a position to anticipate whether this would be such an instance.

***2** Of course, if an "emergency" situation exists, the school district could proceed without further formal advertising for bids. General Municipal Law, § 103(4) provides for the letting of purchase and public works contracts without competitive bidding in cases of 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 a political subdivision require immediate action which cannot await competitive bidding. The declaration of a public emergency for competitive

WICKS Reform 2008

(For all contracts advertised or solicited for bid on or after 7/1/08)

- Raises the threshold for public work projects subject to the Wicks Law requiring separate specifications and bidding for the plumbing, heating and electrical work. The total project's threshold would increase from \$50,000 to: \$3 million in Bronx, Kings, New York, Queens and Richmond counties; \$1.5 million in Nassau, Suffolk and Westchester counties; and \$500,000 in all other counties.
- For projects below the monetary threshold, bidders must submit a sealed list naming each subcontractor for the plumbing, HVAC and electrical work and the amount to be paid to each. The list may not be changed unless the public owner finds a legitimate construction need, including a change in specifications or costs or use of a Project Labor Agreement (PLA), and must be open to public inspection.
- Allows the state and local agencies and authorities to waive the Wicks Law and use a PLA if it will provide the best work at the lowest possible price. If a PLA is used, all contractors shall participate in apprentice training programs in the trades of work it employs that have been approved by the Department of Labor (DOL) for not less than three years. They shall also have at least one graduate in the last three years and use affirmative efforts to retain minority apprentices. PLA's would be exempt from Wicks, but deemed to be public work subject to prevailing wage enforcement.
- The Commissioner of Labor shall have the power to enforce separate specification requirements on projects, and may issue stop-bid orders against public owners for non-compliance.
- Other new monetary thresholds, and similar sealed bidding for non-Wicks projects, would apply to certain public authorities including municipal housing authorities, NYC Construction Fund, Yonkers Educational Construction Fund, NYC Municipal Water Finance Authority, Buffalo Municipal Water Finance Authority, Westchester County Health Care Association, Nassau County Health Care Corp., Clifton-Fine Health Care Corp., Erie County Medical Center Corp., NYC Solid Waste Management Facilities, and the Dormitory Authority.
- Reduces from 15 to 7 days the period in which contractors must pay subcontractors.

NYS Building & Construction Trades Council

Home Page	Project Labor Agreements	Legislative Information	Leadership & Members	Apprenticeship	Safety & Health
Prevailing Wages	Helmets to Hardhats	Upcoming Events	Wicks Law Information	Members Only	

Wicks Law Information

For all contracts advertised or solicited for bid on or after July 1, 2008:

The Wicks Law requires separate specifications and bidding for plumbing, HVAC, and electrical work on public construction projects over a certain threshold amount determined geographically:

- \$3 million in Bronx, Kings, New York, Queens and Richmond counties
- \$1.5 million in Nassau, Suffolk, and Westchester counties
- \$500,000 in all other counties

For projects below the threshold amount, bidders must submit a sealed list naming each subcontractor for the plumbing, HVAC, and electrical work and the amount to be paid to each. The list may not be changed unless the public owner finds a legitimate construction need, including a change in specifications or costs or use of a Project Labor Agreement, and must be open to public inspection.

State and local agencies and authorities may waive the Wicks Law by using a Project Labor Agreement.

The Commissioner of Labor is empowered to enforce separate specification requirements and may issue stop-bid orders against public owners for non-compliance.

Labor

§ 222. Project labor agreements. 1. Definition. "Project labor agreement" shall mean a pre-hire collective bargaining agreement between a contractor and a bona fide building and construction trade labor organization establishing the labor organization as the collective bargaining representative for all persons who will perform work on a public work project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work.

2. Contracts. Notwithstanding the provisions of any general, special or local law, or judicial decision to the contrary:

(a) Any agency, board, department, commission or officer of the state of New York, or of any political subdivision thereof as defined in section one hundred of the general municipal law, municipal corporation as defined in section sixty-six of the general construction law, public benefit corporation, or local or state authority as defined in section two of the public authorities law having jurisdiction over the public work may require a contractor awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into a project labor agreement during and for the work involved with such project when such requirement is part of the agency, board, department, commission or officer of the state of New York, political subdivision, municipal corporation, public benefit corporation or local or state authority having jurisdiction over the public work request for proposals for the project and when the agency, board, department, commission or officer of the state of New York, political subdivision, municipal corporation, public benefit corporation or local or state authority having jurisdiction over the public work determines that its interest in obtaining the best work at the lowest possible price, preventing favoritism, fraud and corruption, and other considerations such as the impact of delay, the possibility of cost savings advantages, and any local history of labor unrest, are best met by requiring a project labor agreement.

(b) Any contract, subcontract, lease, grant, bond, covenant or other agreement for projects undertaken pursuant to this section shall not be subject to the requirements of separate specifications (referred to as the Wicks Law) when the agency, board, department, commission or officer of the state of New York, or political subdivision thereof, municipal corporation, public benefit corporation or local or state authority having jurisdiction over the public work has chosen to require a project labor agreement, pursuant to paragraph (a) of this subdivision.

(c) Whenever the agency, board, department, commission or officer of the state of New York, or political subdivision thereof, municipal corporation, public benefit corporation or local or state authority having jurisdiction over the public work enters into a contract, subcontract, lease, grant, bond, covenant or other agreement for the construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement for a project undertaken pursuant to this section, it shall be deemed to be a public works project for the purposes of this article, and all the provisions of this

article shall be applicable to all the work involved with such project including, but not limited to, the enforcement of prevailing wage requirements by the fiscal officer as defined in paragraph (e) of subdivision five of section two hundred twenty of this article.

(d) Every contract entered into by any agency, board, department, commission or officer of the state of New York, or any political subdivision thereof, municipal corporation, public benefit corporation or local or state authority having jurisdiction over the public work for a project shall contain a provision that the design of such project shall be subject to the review and approval of the entity and that the design and construction standards of such project shall be subject to the review and approval of such state entity, if applicable. In addition, every such contract shall contain a provision that the contractor shall furnish a labor and material bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of any contracts for a project undertaken pursuant to this section and a performance bond for the faithful performance of the project, which shall conform to the provisions of state or local law, and that a copy of such performance and payment bonds shall be kept by such entity and shall be open to public inspection.

(e) Any contract, subcontract, lease, grant, bond, covenant, or other agreement for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement with respect to each project undertaken pursuant to this section, the entity shall consider the financial and organizational capacity of contractors and subcontractors in relation to the magnitude of work they may perform, the record of performance of contractors and subcontractors on previous work, the record of contractors and subcontractors in complying with existing labor standards and maintaining harmonious labor relations, and the commitment of contractors to work with minority and women-owned business enterprises pursuant to article fifteen-A of the executive law through joint ventures of subcontractor relationships. With respect to any contract for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement in excess of three million dollars in the counties of the Bronx, Kings, New York, Queens, and Richmond; one million five hundred thousand dollars in the counties of Nassau, Suffolk and Westchester; and five hundred thousand dollars in all other counties within the state; the entity shall further require that each contractor and subcontractor shall participate in apprentice training programs in the trades of work it employs that have been approved by the department for not less than three years and shall have graduated at least one apprentice in the last three years and shall have at least one apprentice currently enrolled in such apprenticeship training program. In addition, it must be demonstrated that the program has made significant efforts to attract and retain minority apprentices, as determined by affirmative action goals established for such program by the department.

Source:

[http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=\\$\\$LAB222\\$\\$@TXLAB0222+&LIST=SEA1+&BROWSER=BROWSER+&TOKEN=59974875+&TARGET=VIEW](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$LAB222$$@TXLAB0222+&LIST=SEA1+&BROWSER=BROWSER+&TOKEN=59974875+&TARGET=VIEW)