

TOWN OF ULYSSES
PROCUREMENT POLICY
(Approved 11/17/2020; Updated 1/5/2023)

WHEREAS, Section 104-b of the General Municipal Law requires the governing body of every municipality to adopt a procurement policy for all goods and services which are not required by law to be publicly bid, and

WHEREAS, a review and update of the policy adopted on 11/17/2010 has been completed by the Finance Committee and recommended for approval, be it therefore

RESOLVED, that the Town of Ulysses 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. Every planned purchase must be initially reviewed to determine whether it is a Purchase Contract or a Public Works contract. Contracts which involve substantial or extensive services, or involve special skills so that the acquisition of the commodity is incidental to the labor should be treated as Public Works Contracts. Purchases and true rentals or leases of property do not constitute “purchase contracts” within the meaning and intent of General Municipal Law 103 and therefore are not subject to the requirements specified in (1) above. Contracts where there is little or no labor involved and involves primarily the procurement of commodities should be treated as Purchasing Contracts (ref: OSC 1998 publication 3006 on the Applicability of General Municipal Law 103).

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 and public works contracts under \$35,000; emergency purchases; goods purchased from agencies for the blind or severely handicapped; goods purchased from agencies for correctional institutions; purchases under State and County contracts; and surplus and second-hand purchases from another governmental entity.

In considering the thresholds for procurement and competitive bidding, the aggregate amount to be expended in a fiscal year for an item or commodity to be purchased or the same type of public work must be considered.

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.

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

<u>Estimated Amount Of Purchase Contract</u> (Est. labor cost no greater than 20% of the total cost)	<u>Method</u>
\$0 – 500	Prior approval of Department Head
\$501 – 3,000	Prior approval from Supervisor
\$3,001 – 6,000	2 written quotations and prior approval from Supervisor & notification to Town Board
\$6,001 - 19,999	3 written quotations or written request for proposal and prior approval from Town Board

Exceptions:

- a) Highway Superintendent is authorized to incur expenses not to exceed \$6,000.00 for repair and maintenance to highway equipment without Supervisor approval.
- b) Highway Superintendent is authorized to purchase capital equipment with prior approval of the Town Board and an agreed upon spending limit.
- c) Highway Superintendent is authorized to purchase materials and supplies for highway repair and maintenance without prior Town Board approval so long as it is done in accordance with Section 284 Agreement.

<u>Estimate Amount of Public Works Contract</u>	<u>Method</u>
\$0 – 6,000	Prior approval of Supervisor
\$6,001 – 10,000	2 written quotations and prior approval from Town Board
\$10,001 – 34,999	3 written quotations or written requests for proposal and prior approval from the Town Board.

Exceptions:

- The Highway Superintendent is authorized to incur expenses not to exceed \$6,000 for repair and maintenance of highway facilities and infrastructure without Supervisor approval.
- Highway Superintendent is authorized to purchase materials and supplies for highway repair and maintenance without prior Town Board approval so long as it is done in accordance with Section 284 Agreement.

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 proposal be a bar to the procurement.

4. All procurements made under one of the above listed circumstances require written documentation of the circumstances and reasoning or information used. All quotes should be obtained by Town staff or Town official, received in writing, and documented in order to demonstrate that the procurement process was conducted within State Law and this policy.
5. 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 either (a) the offeror is not responsible, or (b) the award provides “best value” by providing goods or services of the highest quality, while being the most cost efficient, through described and documented criteria including, but not limited to: cost of maintenance, proximity to the end user if distance or response time is a significant term, durability, availability of replacement parts or maintenance contractors, longer product life, product performance criteria, and quality of craftsmanship.. In making a determination that the offeror is not responsible, the affected offeror shall be provided appropriate due process. The final determination of non-responsibility shall be made by the purchaser and may not be challenged under any circumstances.
6. Pursuant to General Municipal Law Section 104-b (2) (f), this procurement policy specifies the following 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 Town of Ulysses.
 - 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 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; 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 accountant; investment management services; printing services involving extensive writing, editing or art work; management of services for customized programs, or services involved in substantial modification and customizing of pre-packaged software.

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- 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 alternate proposals may threaten 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.
- d. Sole-source items.

All procurements made under one of the above listed circumstances require written documentation of the circumstances and reasoning or information used.

- 7. The unintentional failure to comply with the provisions of this policy shall not be grounds to void action taken or give cause for action against the Town or any officers or employees thereof.
- 8. This policy shall be reviewed annually by the Town Board at their organizational meeting or as soon afterward as practical. The adopted policy will be distributed to all department heads.
- 9. Article 8 and Article 9 of the New York State Labor Law require the payment of prevailing wage to all laborers, workers, or mechanics employed under a public work or building service contract and shall be adhered to for any contracted services.