

# VILLAGE OF SHERMAN, NEW YORK

## PROCUREMENT POLICY

1. 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 \$10,000 and public works contracts under \$20,000; emergency purchases; certain municipal hospital purchases; goods purchases from agencies for the blind or severely handicapped; goods purchased from correctional institutions; purchases under State and county contracts; and 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. All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchase contracts over \$10,000 and public works contracts over \$20,000; 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 104 of the General Municipal Law; purchases under county contracts pursuant to section 103(3) of the General Municipal Law; or 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:

<u>Estimated Amount of Purchase Contract</u>	<u>Method</u>
Under \$500	None (0)
\$500 - \$4,999	Two (2) verbal quotations

\$5,000 - \$19,999

Three (3) written/fax quotations or  
written request for proposals

Estimated Amount of Public Works Contract Method

Under \$1,000

None (0)

\$1,000 - \$2,999

Two (2) verbal quotations

\$3,000 - \$9,999

Two (2) written/fax quotations

\$10,000 - \$34,999

Three (3) written/fax quotations or  
written request for proposals

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 proposals be a bar to the procurement.

4. Documentation is required of each action taken in connection with each procurement.
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 the award will achieve 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.
6. Pursuant to General Municipal Law Section 104-b(2)(g), 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 municipality. In following circumstances, it may not be in the best interests of the Village of Sherman, to solicit quotations or document the basis for not accepting the lowest 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, judgement, 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 Village 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 or architect engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; 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 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, 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 \$500.

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 minimis contracts would be awarded based on favoritism.

e. 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.

7. M/WBE:

Purchasers (municipal employees soliciting bids) are required to take affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Purchasers shall take all of the following steps to further this goal:

Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Empire State Development's Division on Minority and Women's Business Development Agency in the solicitation and utilization of small businesses, minority owned firms and women's business enterprises.

8. Section 3:

Recipients shall ensure that employment and other economic opportunities generated by the expenditure of any state or federal funds available to the Village shall, to the greatest extent feasible, be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low- and very low-income persons.

9. Bonding:

For any activity that requires the contracting (or subcontracting) or facility improvements using any state or federal funds available to the Village exceeding \$100,000, the minimum requirements shall be as follows:

- a. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of this bid, execute such contractual documents as may be required within the time specified.

- b. A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.
  - c. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.
  - d. Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, “Surety Companies Doing Business with the United States.”
10. This policy shall go into effect September 9th, 2021 and will be reviewed annually at the Reorganizational Meeting.

Revised Procurement Policy accepted on September 8<sup>th</sup>, 2021.