

Chapter 70

PROCUREMENT POLICY

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| § 70-1. Adoption; applicability. | § 70-5. Award to lowest bidder. |
| § 70-2. Determination of type of contract and amount to be spent. | § 70-6. Exceptions to solicitation of alternative proposals. |
| § 70-3. Exceptions to competitive bidding. | § 70-7. Competitive bidding allowed. |
| § 70-4. Procurement methods. | § 70-8. Annual review. |

[HISTORY: Adopted by the Town Board of the Town of Clinton 7-13-1993 by Res. No. 93-13. Amendments noted where applicable.]

GENERAL REFERENCES

Interagency Purchasing Cooperative — See Ch. 44.

§ 70-1. Adoption; applicability.

The Town of Clinton 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.

§ 70-2. Determination of type of contract and amount to be spent.

Every prospective purchase of goods or services 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.

§ 70-3. Exceptions to competitive bidding.

- A. The following items are not subject to competitive bidding pursuant to § 103 of the General Municipal Law:
- (1) Purchase contracts under \$10,000 and public works contracts under \$20,000;
 - (2) Emergency purchases;
 - (3) Certain municipal hospital purchases;
 - (4) Goods purchased from agencies for the blind or severely handicapped;
 - (5) Goods purchased from correctional institutions;

- (6) Purchases under state and county contracts; and
 - (7) Surplus and secondhand purchases from another government entity.
- B. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This document 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.

§ 70-4. Procurement methods.

All goods and services not subject to competitive bidding will be secured by using written requests for proposals (RFP), written quotations, verbal quotations or any other method (catalog, advertisements, etc.) that assures that goods will be purchased at the lowest price and that favoritism will be avoided.

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

- (1) Purchase contracts.

Estimated Amount of Purchase Contract	Method
\$250 to \$1,000	Discretion of purchaser
\$1,000 to \$3,000	Oral request for the goods and oral/fax/catalog/advertisement quotes from at least two vendors
\$3,000 to \$10,000	A written request (RFP) and written/fax/catalog/advertisement quotes from at least three vendors

- (2) Public works contracts.

Estimated Amount of Public Works Contract	Method
\$500 to \$1,000	Discretion of purchaser
\$1,000 to \$5,000	Written RFP and written/fax/proposals from at least three contractors
\$5,000 to \$20,000	Written RFP and written/fax/proposals from public notices in newspapers from at least four contractors

- B. Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax/oral/catalog/advertisement quotes offered.
- C. 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 procurement.
- D. All information gathered in complying with the procedures of this policy shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.

§ 70-5. Award to lowest bidder.

The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the purchaser prepares a written justification providing reasons why it is in the best interest of the Town and its taxpayers to make an award to other than the low proposer. If a proposer is not deemed responsible, facts supporting that judgment shall also be documented and filed with the records supporting the procurement.

§ 70-6. Exceptions to solicitation of alternative proposals.

Pursuant to General Municipal Law § 104-b(2)(f) the solicitation of alternative proposals or quotations will not be required in the best interest of the municipality in the following circumstances where proper 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:

- 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.
 - (1) In determining whether a service shall fit 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.
 - (2) Professional and 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; services of a certified public accountant; investment management services; printing services involving

extensive writing, editing, or artwork; 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 § 103(4) of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and 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 secondhand goods from any source. 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 contained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.
- D. Goods under \$250 and public works contracts for less than \$500. The time and documentation required to purchase through this policy may be more costly than the item itself and therefore not be in the best interest of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

§ 70-7. Competitive bidding allowed.

No portion of this chapter shall be construed as preventing the competitive bidding of purchase contracts under \$10,000 or public works projects under \$20,000, if so desired.

§ 70-8. Annual review.

This policy shall be reviewed annually by the Town Board at its organizational meeting or as soon thereafter that is reasonably practicable.