

VILLAGE OF BUCHANAN
RESOLUTION
ADOPTING A REVISED PROCUREMENT POLICY

Introduced by: Trustee _____
Seconded by: Trustee _____
Dated: _____

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, on _____ the Village Board of Trustees adopted a Revised Procurement Policy, revising a prior Procurement Policy dated September 7, 2010; and

WHEREAS, changes to the law require that the Village of Buchanan again revise its existing Procurement Policy; and

WHEREAS, it is the desire of the Village Board of Trustees that all guidelines related to the procurement of goods and services be contained in one document; and

WHEREAS, the Board of Trustees has reviewed the Revised Procurement Policy and has recommended approval.

NOW THEREFORE BE IT RESOLVED, that the Village of Buchanan does hereby adopt the following revised Procurement Policy which is intended to apply to all goods and services which are not required by law to be publicly bid.

BE IT FURTHER RESOLVED, that the adoption of this policy replaces any previous policies that may have been adopted regarding the procurement of goods and services.

PROCUREMENT POLICY FOR THE VILLAGE OF BUCHANAN

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 \$20,000 and public works contracts under \$35,000, 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 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 that assures goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchase contracts over \$20,000 and public works contracts over \$35,000, 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 186 of the Correction Law, purchases under state contracts pursuant to Section 104 of the General Municipal Law, purchases under county contracts pursuant to Section 103(3) of the General Municipal Law, or 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:

PURCHASE CONTRACT: materials, supplies, equipment - General Municipal Law, or as amended by statute.

<u>AMOUNT</u>	<u>REQUIRED</u>	<u>APPROVAL</u>
Under \$500	Confirming/0 Quotes	Village Administrator
\$500/ \$2999	2 Quotes (Verbal)	Village Administrator
\$3,000/ \$19,999	3 Quotes (Written)	Village Administrator
\$20,000/ more	Competitive Bid	Village Board

PUBLIC WORKS CONTRACT: labor and materials – General Municipal Law

<u>AMOUNT</u>	<u>REQUIRED</u>	<u>APPROVAL</u>
Under \$500	Confirming/0 Quotes	Village Administrator
\$500/ \$2999	2 Quotes (Verbal)	Village Administrator
\$3000/\$34,999	3 Quotes (Written)	Village Administrator
\$35,000/ more	Competitive Bid	Village Board

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 bidder. This documentation will include an explanation of how the award will achieve savings or how the bidder was not responsible. A determination that the bidder 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)(f), the procurement policy may contain 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 municipality. In the following circumstances it may not be in the best interest of the Village of Buchanan 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, 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 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, services of an architect, 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 municipality owned property, and computer software or programming services for customized programs, or services involved in substantial modification and customizing of prepackaged software.

In the event that the contract combines the provision of professional services and a purchase, in determining the appropriate monetary threshold criteria to apply to the contract, the Village will determine whether the professional service or the purchase is the predominant part of the transaction.

B. Emergency purchases pursuant to Section 103(4) of the General Municipal Law. A public emergency is one which may affect life, health, safety of children and where immediate action cannot await competitive bidding. 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. Sole Source, Competitive bidding proposals are not required under Section 103 in the General Municipal Law in those limited situations when there is only one possible source from which to procure goods and services required in the public interest such as in the case of certain patented goods or services or public utility services. This exemption applies to the procurement of goods or services where only one vendor can supply the commodity, technology and/or perform the services required and where there is no substantial equivalent.

The New York State Comptroller's Office, Division of Municipal Affairs, requires that any municipal officers executing sole source documents should be prepared to "factually verify that the goods or services sought might only be obtained from a single source."

The following are examples of circumstances which may justify sole source purchase:

- The compatibility of proposed equipment accessories or replacement parts to existing equipment is essential and the required item is available from only a single supplier.
- An item for trial, testing or teaching purposes is available from only a single supplier.
- A one-of-a-kind item is sold only on a "direct from manufacturer" basis.
- Proprietary software, which is licensed by a company and sole support, is only provided by that company.

Procurement under this sole source exemption must be documented with the following explanations:

- the unique nature of the requirement;
- the basis upon which it was determined that there is only one known vendor able to meet the need (i.e., the steps taken to identify potential competitors);
- the basis upon which the cost was determined to be reasonable (i.e., a fair market price was inferred based upon the sole source provider's product catalogs, published price lists and the like.)

In making these determinations, the Department Head should be prepared to demonstrate, among other things, the unique benefits of the patented item as compared to other items available in the marketplace; that no other item provides substantially equivalent or similar benefits; and that, considering the benefits received, the cost of the item is reasonable, when compared to conventional methods. In addition, the department head should be prepared to document, as a matter of fact, that there is no possibility of competition for the procurement of the goods.

E. Goods purchased from agencies for the blind or severely handicapped, with appropriate documentation.

F. Goods purchased from correctional facilities, with appropriate documentation. Consult with Comptroller and Town Attorney for applicability.

G. Goods purchased from, or through, another governmental agency, such as NYS or Westchester County Contracts, when the price, or list price with discount, including all applicable additional charges such as, but not limited to, delivery charges, is available, and with appropriate documentation.

H. Goods purchased at auction, with appropriate documentation.

7. Any and all procurement procedures not specifically covered in this policy will be adhered to as covered in General Municipal Law, Section 104-b.
8. This policy shall be effective immediately and will be reviewed at least annually or at such other times as in the Board of Trustees discretion such review is necessary.

Upon Roll Call Vote:

Mayor Theresa Knickerbocker	_____
Trustee Anthony Capicotti	_____
Trustee Steve Laker	_____
Trustee Dan Stewart	_____
Trustee Sean Murray	_____

Vote: Resolution carried by a vote of ____ to ____.

STATE OF NEW YORK)SS.:
COUNTY OF WESTCHESTER)

I, CYNTHIA KEMPTER, Village Clerk of the Village of Buchanan, do hereby certify that the above is a true and exact copy of a Resolution adopted by the Village Board of the Village of Buchanan at a meeting of said Board held.