

CLARENCE FIRE DISTRICT NO. 1

PROCUREMENT & PURCHASING POLICY

At a meeting of the Board of Fire Commissioners of the Fire District held at the Fire District Office on November 19, 2012, the following resolution/procedure was adopted in order to restate and amend the procurement and purchasing policy of the Fire District.

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

WHEREAS, comments have been solicited from the officers and officials of the Fire District involved in the procurement process.

NOW THEREFORE, BE IT RESOLVED, that the Fire District 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.

PROCUREMENT AND PURCHASING POLICY FOR THE FIRE DISTRICT

Every purchase of goods and services to be made by the Fire District, which is not required by law to be publicly bid, must comply with the following procurement policy:

- A. Every purchase 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 the purchase contract/public works contract is subject to competitive bidding or whether the purchase contract/public works contract can reasonably be expected to become subject to competitive bidding because the aggregate total amount to be spent on the item of supply or service may exceed such limits. In making this determination, the Board will consider past purchases and the aggregate amount to be spent in a one-year period.

The following items are not subject to competitive bidding pursuant to Section 103 of the General Municipal Law: Purchase Contracts under \$20,000.00 and Public Works Contracts under under \$35,000.00; emergency purchases; certain municipal hospital purchases; acquisition of emergency goods and services (purchases required based upon an unanticipated unforeseen emergency that arises); goods purchased from agencies for the blind or severely handicapped; goods purchased from correction institutions; purchases under State and County Contracts; and surplus and secondhand purchases for another governmental entity. The individual making a purchase will document the decision that a purchase is not subject to competitive bidding in writing. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating the source which makes the item, or service is exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

- B. All goods and services will be secured by use of written request for proposals, written quotations, or other method that makes certain that goods will be purchased at the lowest responsible price and that favoritism will be avoided.

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- C. All proposals and quotations will be obtained by District personnel by contacting independent vendors directly, supplying the necessary request for proposal (RFP) information needed by the vendor to formulate a quote or proposal, and having the vendor supply a proposal in the proper form (verbal, written, fax, etc.) directly to the District Office. No vendors will be permitted to participate or be asked to participate in the process of securing quotes or proposals from other vendors. No vendor may solicit another vendor to submit a quote or proposal on a contract that it is submitting a quote or proposal on. If quotes or proposals are received on a proposed purchase contract and it is determined that the vendors submitting quotes or proposals are related in some manner that would raise a question as to possible collusion, all such quotes or proposals from the vendors involved will be disqualified and a new round of quotes and proposals shall be obtained.
- D. Equipment and goods to be leased by the Fire District will not be subject to this policy since a lease does not involve an actual purchase of goods. However, installment purchase contracts which involve an actual purchase will be subject to this policy, competitive bidding rules and Section 109-b of the General Municipal Law.
- E. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

ESTIMATED AMOUNT OF PURCHASE CONTRACT METHOD

\$ 0.00 to \$ 1,999.99	One quote
\$ 2,000.00 to \$ 4,999.99	Two verbal quotes
\$ 5,000.00 to \$ 9,999.99	Two written/fax quotes, or requests for proposals
\$10,000.00 to \$19,999.99	Three written/fax quotes or requests for proposals

ESTIMATED AMOUNT OF PUBLIC WORKS CONTRACT METHOD

\$ 0.00 to \$ 2,999.99	One quote
3,000.00 to \$ 4,999.99	Two verbal quotes
5,000.00 to \$ 6,999.99	Two written/fax quotes or requests for proposal
7,000.00 to \$34,999.99	Three written/fax quotes or requests for proposals

- F. A good-faith effort shall be made to obtain the required number of proposals or quotations. If the District is unable to obtain the required number of proposals or quotations, the District will document the attempts made to obtain the proposals or quotes. In no event shall the failure to obtain the proposals be a bar to the procurement. Documentation is required of each action taken in relation to each procurement.
- G. Documentation and an explanation are required whenever a contract is awarded to other than the lowest responsible quote or proposal. This documentation will include an explanation of how the award will achieve savings or how the entity submitting the quote or proposal was not responsible, or how the quote or proposal was not responsive (did not meet specifications, etc.) A determination that the quote or proposal is not responsible shall be made by the District and may not be challenged under any circumstances.

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- H. Pursuant to General Municipal Law, Section 104-b(2)(f), in its sole discretion, the Board of Fire Commissioners reserves the right to determine when the solicitation of alternative proposals or quotations will not be in the best interest of the Fire District for a particular type of purchase or procurement, and in such cases will direct that purchase or procurement be conducted in the appropriate manner. In the following circumstances, it may not be in the best interest of the Fire District to solicit quotations or further document the basis for not accepting the lowest bid:
1. Professional services requiring special or technical skill, training or expertise (except external accounting services now covered under a statutory request for proposal process as more fully described below). The individual/firm 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 firm that offers the lowest price. Additionally, the nature and services may be such that they do not readily lend themselves to competitive procurement procedures. In determining whether a service fits into this category, the Board of Fire Commissioners shall take into consideration the following guidelines: whether the services are subject to state licensing and testing requirements; whether substantial formal education or training is a necessary prerequisite to the performance of the services; and whether the services require a personal or confidential relationship between the individual and the municipal officials. Professional or technical services are defined as services of an attorney; services of a physician; technical services of an engineer or architect engaged to prepare plans, maps and estimates; securing of insurance coverage and/or services of an insurance broker; services of a certified public accountant *(see paragraph 3 below); investment management services; printing services involving extensive writing, editing or artwork; management services for municipally owned property; public relations services and computer software or programming services customizing computer programs, or services involving a substantial modification and customizing of pre-packaged software, and services of a computer or other expert to assist in the design of a computer and/or communications network. Under this policy, the Board will procure professional services without soliciting multiple quotations. However, the Board reserves the right to nevertheless obtain proposals for such work in order to make certain that it is obtaining a fair market rate for such services and/or if it is not confident that current practices provide for obtaining a fair price for such services. In this process, the Board will be guided by the best interest of the Fire District and its taxpayers.
 2. The Board will make certain that all contracts let in accordance with the preceding paragraph are let based upon a written contract or retainer agreement.
 3. Accounting services for conducting of the annual external audit will be purchased in accordance with the new statutory request for, proposal process. They, will be secured through the request for proposal procedure detailed under Section 181-b of the Town Law and the rules, regulations and forms adopted by the Office of the State Comptroller for the procurement of such services.
 4. Accounting services for providing internal accounting assistance to the Board and District Treasurer and in order to maintain proper internal financial controls will be procured in accordance with procedures for procuring other professional services.

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5. 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 because seeking alternate proposals may threaten the life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits.
6. Purchases of surplus and secondhand goods from any source. If alternate proposals were required, the Fire District could be prevented from purchasing surplus and secondhand goods at auctions or through specified advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods since a lower price may indicate an older product or a product in a less suitable condition.
7. Standardized Items. In the event that the Board of Fire Commissioners adopts a resolution to standardize on a particular type and manufacturer of equipment in accordance with the authority granted by Section 103 of the General Municipal Law, and the purchase price for the product will be less than \$20,000.00, the Fire District will purchase the item or items directly from the manufacturer or from an authorized representative of the manufacturer. If the manufacturer has granted exclusive rights to a particular vendor in the area of the Fire District, the District will not be required to solicit additional quotations. This rule will also apply in the case of direct purchases from the manufacturer of a standardized product.
8. Goods under \$2,000.00 and public works services under \$3,000.00. The time and documentation required to purchase such goods or services would likely be more costly and then the item itself and would, 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.
- I. In the event that the Board of Fire Commissioners establishes the Office of Director of Purchasing, the person appointed to this public office shall be required to conduct purchasing activities and operations in accordance with this procedure. Section 103 of the General Municipal Law, Section 104-b of the General Municipal Law, and all other applicable statutes that cover purchasing and procurement by Fire Districts in New York State. Such Director of Purchasing will still be required to obtain approval of the Board of Fire Commissioners before entering into purchase and public works contracts, and his or her purchasing activities will be subject to the monthly audit of claim vouchers, performed by the Board. The Director of Purchasing will be empowered to enter into purchase and public works contracts in amounts of less than \$3,000.00 in advance of Board approval, but shall be personally liable on such contracts in the event that the Board refuses to ratify such action at a meeting thereafter.
- J. This policy shall go into effect immediately. District staff will provide proof of compliance with these procurement and purchasing guidelines with claims submitted for audit to the Board of Fire Commissioners, District staff will provide proof of receipt of goods and services with claims submitted for audit to the Board of Fire Commissioners. The adoption of the foregoing resolution/procedure was duly put to a vote and upon roll call, the vote was as follows:

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The adoption of the foregoing resolution/procedure was duly put to vote and upon roll call, the vote was as follows:

Chairman Wells)	
Vice Chairman Work)	
Commissioner Garlapo)	AYES
Commissioner Metzger)	

The resolution/procedure was thereupon duly adopted.

Dated: Clarence, NY

November 11, 2012

This policy was adopted November 19, 2012

By order of the Board of Fire Commissioners, Clarence Fire District No. 1