

**Town of Guilford
223 Marble Road
Guilford, NY 13780**

POLICY AND PROCEDURE

PROCUREMENT

Policy: It is the policy of the Town of Guilford under Section 104-b of the General Municipal Law (GML) to adopt internal policies and procedures governing all procurement of goods and services not subject to the bidding requirements of GML, SS103 or any other law.

Procedure:

1. Every prospective purchase of goods or services shall be evaluated to determine the applicability of GML, SS103. Every town officer, board member, department head, or other personnel with the requisite purchasing authority (hereafter Purchaser) shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvas of other town departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.
2. All purchases of a) supplies or equipment which will exceed \$20,000 in the fiscal year or b) public works contracts over \$35,000 shall be formally bid pursuant to GML, SS103.
3. All estimated purchases of:
 - a. Less than \$10,000 but greater than \$3,000 require a written request for a proposal (RFP) and written/fax quotes from three (3) vendors.
 - b. Less than \$3,000 but greater than \$1,000 require a written request for the goods and oral/fax quotes from two (2) vendors.
 - c. Less than \$1,000 but greater than \$250 require an oral request from vendor.

All estimated public works contracts of:

- a. Less than \$35,000 but greater than \$10,000 require a written RFP and fax/proposals from three (3) contractors.
- b. Less than \$10,000 but greater than \$3,000 require a written RFP and fax/proposals from two (2) contractors.
- c. Less than \$3,000 but greater than \$500 require an oral request from vendor.

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 quotes offered. 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.

4. 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 bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement. Guidelines for Bidder Responsibility Determinations set forth as Appendix A hereto shall be utilized where bidding pursuant to GML Section 103 is required.
5. 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 shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.
6. Except when directed by the Town Board, no solicitation of written proposals or quotations shall be required under the following circumstances:
 - a. Acquisition of professional services
 - b. Emergencies
 - c. Sole source situations
 - d. Goods purchased from agencies for the blind or severely handicapped
 - e. Goods purchased from correctional facilities
 - f. Goods purchased from another governmental agency
 - g. Goods purchased at auction
 - h. Goods purchased for less than \$250
 - i. Public works contracts for less than \$500
7. This policy shall be reviewed annually by the Town Board at its organizational meeting or as soon thereafter as is reasonably practicable.

APPENDIX A

Guilford Guidelines for Determining Responsibility of Bidders

In deliberating upon the responsibility of a bidder or a subcontractor, due consideration shall be given to any credible evidence or reliable information that the past or current record of a bidder or proposed subcontractor includes any of the following:

1. Lack of adequate expertise, prior experience with comparable projects, or financial resources to perform the work of the contract or subcontract in a timely, competent, and acceptable manner. Evidence of such a lack of ability to perform may include, but shall not be limited to, evidence of suspension or revocation for cause of any professional license of any director or officer, or any holder of five percent (5%) or more of the bidder's or proposed subcontractor's stock or equity; failure to submit satisfactory evidence of insurance, surety bonds of financial responsibility; or history of termination or prior contracts for cause.
2. Criminal conduct in connection with government contracts or the conduct of business activities involving:
 - a. The infliction, attempted infliction, or threat of death intentional personal injury, or intentional property damage in connection with involvement in a pattern of racketeering, labor racketeering, extortion, obstruction of justice, or other comparable crimes.
 - b. Bribery, fraud, bid-rigging, embezzlement, or other comparable crimes
 - c. Serious moral turpitude fundamental lack of integrity, or knowing disregard for the law.

Evidence of such conduct may include a judgment of conviction, pending criminal indictment or formal grant of immunity in connection with a criminal prosecution of the bidder or proposed subcontractor, and director or officer, or any holder of five percent (5%) or more of the shares or equity of the bidder or proposed subcontractor, or any affiliate of the bidder or proposed subcontractor.

3. Grave disregard for the personal safety of employees, Town personnel, or members of the public. Due consideration shall be given to whether available evidence concerning the training of employees, equipment actually in use at the work site, and company practices for identifying and addressing deficiencies and securing employee compliance, demonstrates a genuine commitment to safety, or lack of same.
4. Willful noncompliance with the prevailing wage and supplements payment requirements of the Labor Law, including consideration of any pending violations of the bidder or proposed subcontractor, or any affiliate of the bidder or proposed subcontractor.
5. Any other significant Labor Law violations, including but not limited to, child labor violations, failure to pay wages, or unemployment insurance tax delinquencies.

6. Any significant violation of the Worker's Compensation Law, including but not limited to, the failure of a bidder or proposed subcontractor to provide proof of workers' compensation or disability benefits coverage.
7. Any criminal conduct, involving violations of the Environmental Conservation Law or other federal or state environmental statutes, or repeated or significant civil violations for federal or state environmental statutes or regulations.
8. The failure of a bidder or contractor to demonstrate good faith efforts to comply with applicable federal or state statutes and regulations requiring efforts to solicit and utilize minority-owned business enterprises and disadvantaged business enterprises as potential subcontractor, in connection with a pending bid for the performance of a federal-aid or state funded or assisted project to such statutory and regulatory requirements.
9. The failure of a bidder, contractor, or proposed subcontractor, to comply with federal or state statutes or regulations requiring the hiring, training, and employment of persons presumed to be disadvantaged in accordance with federal and state definitions to meet federal and state equal employment opportunity requirements.
10. The submission of a bid that is mathematically or materially unbalanced.
11. The submission of a bid which in whole or in part is so much lower than the Town Engineer's estimate of the cost of, or anticipated bids for the contract that it appears unlikely that the bidder will be able to perform the contract satisfactorily at the price bid.
12. Any other cause so serious or compelling a nature that it raises questions about the present responsibility of a contractor or subcontractor, including but not limited to, submission of a false or misleading statement on a questionnaire, or in some other form, in connection with a bid for or award of a contract or a request for approval of a subcontractor.

In addition to the factors specified above, the Town may also give due consideration to any other factors considered by the Town to bear upon responsibility, including but not limited to, any mitigating factors brought to the Town's attention by the bidder or proposed subcontractor.