

Chapter 37. PROCUREMENT POLICY

[HISTORY: Adopted by the Board of Trustees of the Village of Millbrook 12-16-1991. Amendments noted where applicable.]

GENERAL REFERENCES

Investment policy — See Ch. 24.

§ 37-1. Adoption; applicability.

The Village of Millbrook 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.

§ 37-2. Determination of purchase.

Every purchase made will 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.

§ 37-3. Purchases not subject to competitive bidding.

The following items are not subject to competitive bidding pursuant to § 103 of the General Municipal Law:

- A. Purchase contracts under \$10,000 and public works contracts under \$20,000.
- B. Emergency purchases. *Editor's Note: The exception for goods purchased from agencies for the blind or severely handicapped, which immediately followed this exception, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- C. Goods purchased from correctional institutions.
- D. Purchases under state and county contracts.
- E. Surplus and secondhand purchases from another governmental entity.

§ 37-4. Documentation of decision regarding bidding.

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.

§ 37-5. Purchase to be at lowest price; exceptions.

All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances:

- A. Purchase contracts over \$10,000 and public works contracts over \$35,000. *Editor's Note: The exception for goods purchased from agencies for the blind or severely handicapped, which immediately followed this exception, was deleted*

at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

- B. Goods purchased from correctional institutions pursuant to § 186 of the Correction Law.
- C. Purchases under State contracts pursuant to § 104 of the General Municipal Law.
- D. Purchases under county contracts pursuant to § 103(3) of the General Municipal Law.
- E. Purchases pursuant to § 37-8 of this policy.

§ 37-6. Methods of purchase.

- A. 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
\$500- \$4,999	2 verbal quotations
\$5,000 to \$9,999	3 written/FAX quotations or written request for proposals
Estimated Amount of Public Works Contract	Method
\$500 to \$3,999	2 verbal quotations
\$4,000 to \$9,999	2 written/FAX quotations
\$10,000 to \$34,999	3 written/FAX quotations or written request for proposals

- B. 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.

§ 37-7. Documentation required.

- A. Documentation is required of each action taken in connection with each procurement.
- B. Documentation and an explanation is 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.

§ 37-8. Alternative proposals not required.

Pursuant to General Municipal Law § 104-b, Subdivision 2f, a 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 the municipality. In the following circumstances it may not be in the best interests of the Village of Millbrook 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.

(1) 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 the services.

(c) Whether the services require a personal relationship between the individual and municipal officials.

(2) 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 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 municipally owned property; and computer software or programming services for customized programs or services involved in substantial modification and customizing of prepackaged software.

B. Emergency purchases pursuant to § 103, Subdivision 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 subsection does not preclude alternate proposals, if time permits.

C. Purchases of surplus and secondhand goods from any source. If alternate proposals are required, the village is precluded from purchasing surplus and secondhand 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 small contracts would be awarded based on favoritism.

§ 37-9. Effective date; annual review.

This policy shall go into effect January 1, 1992 and will be reviewed annually.