

RESOLUTION # 54 of 2011 dated October 12, 2011

OFFERED BY: Lance Peterson

2nd by: Christopher D. Matthews

Amended Procurement Policy Resolution

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, comments have been solicited from all officers in the Town involved in the procurement process;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Clayton 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 Policy for the Town of Clayton

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 \$10,000 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 Town official making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchasing official indicating how the decision was arrived at, a copy of the contract or purchase order, a memo from the Town official detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

The Town Clerk shall forward all bid notices to the Town Board and Town Supervisor at the time that they are sent to the newspaper for printing. It shall be the policy of the Town Board to open bids on the Monday before the next regularly scheduled Wednesday Town Board meeting. The Town Board shall then make a decision on the bids at the Wednesday Town Board meeting.

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 that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchases under \$250; 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 Section 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:

<u>Estimated Amount of Purchase</u>	<u>Method</u>
\$ 1,000 - \$ 2,500	3 Verbal Quotations
\$2,501 - \$ 34,999	3 Written Quotations

A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchasing Town official is unable to obtain the required number of proposals or quotations, that official 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 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, how the offeror was not responsible or why the offer was not responsive. A determination that the offeror is not responsible or that the offer was not responsive shall be made by the purchasing official and may not be challenged under any circumstances.
6. In the following circumstances, it is not in the best interests of the Town of Clayton 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, judgement, 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 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. Professional or technical services shall include but not be limited to the following: services of attorneys; services of physicians; services of engineers; securing insurance coverage; services of accountants; 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 pre-packaged software.

b. It is not in the best interests of the Town to solicit alternate proposals for emergency purchases pursuant to Section 103 (4) of the General Municipal Law. Do to the nature of this exception, these goods or services must be purchased immediately because a delay 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. It is not in the best interest of the Town to solicit alternate proposals for purchases of surplus and second-hand goods. If alternate proposals are required, the Town 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. Any goods or services under \$ 1,000 need not be purchased competitively. The time and documentation required to purchase through this policy may be more costly than the item in this type of circumstance and would therefore not be in the best interests of the taxpayer.

e. It is not in the best interest of the Town to solicit alternate proposals for the purchase of utility services or postage as they are sole source acquisitions.

f. Every effort will be made for Procurement of Goods for Town of Clayton which reflect the need for re-cycling.

7. This policy shall go into effect January 1, 1997 and will be reviewed annually, by the Town Board.

Justin Taylor - aye, George Kittle - aye, Lance Peterson - aye, Robert W. Cantwell III – aye, Christopher D. Matthews - aye .

Revised: *To increase the statutory limits for goods and services which are not required by law to be publicly bid (Section 3)—December 8, 2010, Resolution #51 of 2010 and October 12, 2011, Resolution #21 of 2011.*

Revised: *To include stipulation that bid notices are sent to Town Board and Town Supervisor upon sending to the newspaper for printing and that bids will be opened on the Monday prior to the regularly scheduled Wednesday Town Board meeting, with a decision being made at that Wednesday meeting (Section 1)—October 12, 2011, Resolution #21 of 2011.*

(SEAL)

Kathleen E. LaClair, Town Clerk