

RESOLUTION NO.: 251 -2013

OF

DECEMBER 9, 2013

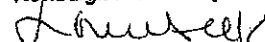
A RESOLUTION ADOPTING THE CITY OF NEWBURGH  
PROCUREMENT POLICY AND PROCEDURE

BE IT RESOLVED, that the City Council of the City of Newburgh, New York hereby adopts the City of Newburgh Procurement Policy and Procedure, a copy of which is attached hereto and made a part of this Resolution; and

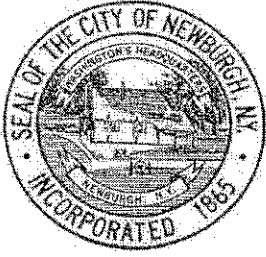
BE IT FURTHER RESOLVED, that this Policy shall take effect on January 1, 2014.

I, Lorene Vittek, City Clerk of the City of Newburgh,  
hereby certify that I have compared the foregoing with the  
original resolution adopted by the Council of the City of  
Newburgh at a regular meeting held 12/9/13  
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of  
Newburgh this 10 day of Dec. 20 13



City Clerk



# City of Newburgh City Comptroller's Office

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John J. Aber  
City Comptroller  
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**TO:** James Slaughter, Interim City Manager  
**FROM:** John J. Aber, City Comptroller  
**DATE:** December 9, 2013  
**SUBJECT:** Procurement Policy

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## I PURPOSE

The purpose of this memorandum is to set forth the policies and procedures for the procurement of goods and services for the City of Newburgh. It is the City's goal to purchase competitively, without prejudice or favoritism and to seek the maximum value for monies expended. The policy is written to ensure compliance with all County, State and Federal procurement rules and regulations.

## II GENERAL

The Office of the Comptroller will be responsible for ensuring compliance with this memorandum.

## III BASELINE CRITERIA FOR COMPETITIVE BIDS

General Municipal Law requires that purchase contracts for supplies/materials, equipment and services involving an estimated annual expenditure exceeding \$20,000 and public work contracts exceeding \$35,000 be awarded after a formal competitive bid process. The competitive bid process will be conducted by the Office of the Comptroller. Detailed below are the steps for conducting a competitive bid:

- A. Requesting Department will submit a detail specification of the services required or materials needed to the Office of the Comptroller.
- B. The Office of the Comptroller will review the specifications and prepare a formal RFP (Request for Proposal) or a Small Procurement. The RFP or Small Procurement will be advertised in the City's 3 official newspapers and posted on the Empire State Purchasing Group Website (BidNet).
- C. RFP's and Small Procurements will remain open for a minimum of 15 days.

- D. For RFP's vendors must deliver their proposals in sealed packages to the Office of the Comptroller within the timeframe allotted under the RFP. Packages submitted after the prescribed timeframe will not be accepted.
- E. The Office of the Comptroller will conduct a bid opening after the allotted RFP timeframe. The bid opening will be open to all vendors and the public.
- F. Three representatives from the City of Newburgh will be required to attend the bid opening. The City employees will consist of: a representative from the Department requesting the material/service, a witness from the Office of the Comptroller to verify the opening was conducted fairly, and a secretary to record the bids.
- G. At the conclusion of the bid opening, the requesting Department will be responsible for reviewing and analyzing all bids and making a determination to award to the lowest and most responsive bidder. The justification to award must be submitted to the Office of the Comptroller for review.
- H. Once reviewed and approved by the City Comptroller the winning bidder will be notified and if accepts, a contract will be prepared in conjunction with Corporation Counsel and submitted to the City Council for approval by Resolution. If the winning declines the offer, the City of Newburgh will go to the second lowest most responsive bidder.
- I. Once the Resolution is approved by the City Council, the requesting Department will submit through KVS a purchase requisition. All documents related to the purchase must be attached to the requisition. This includes the Council Resolution and the contract (if applicable).
- J. The City Comptroller will approve the requisition and release the Purchase Order. Once the Purchase Order is released, the vendor is authorized to move forward.
- K. For Small Procurements, the process will remain the same as outlined above except vendors will be able to electronically submit their bids to the Office of the Comptroller for review. There will be no formal bid opening for Small Procurements.
- L. The Office of the Comptroller will determine when it's appropriate to do a RFP vs. a Small Procurement.

#### **IV BASELINE CRITERIA FOR NON-COMPETITIVE BIDS**

While competitive bids are not required for purchases under \$20,000 (\$35,000 for Public Works), the City must still ensure the best price and service is obtained. Detailed below are the steps for purchasing items/services that are not required to be bid competitively:

- A. Items or services costing under \$5,000 require no documentation. Departments can select a vendor and submit a purchase requisition in KVS.

- a. Once a Department purchases in the aggregate \$5,000 from the same vendor within the same Fiscal Year for the same items and/or services they must follow the bidding requirements detailed in item B (below).
- B. Items or services costing between \$5,001 and \$19,999 require three written quotes. The Department will select the lowest quote and submit a requisition in KVS. Departments are required to attach all quotes to the requisition.
  - a. Once a Department purchases in the aggregate \$20,000 from the same vendor within the same Fiscal Year for the same items and/or services they must follow the bidding requirements detailed in Section III Competitive Bidding.
- C. All items over \$20,000 (\$35,000 for Public Works) are required to follow the steps outlined in Section III Competitive Bids.

## **V EXEMPT FROM BIDDING**

The following types of purchases are exempt from bidding (competitive and/or non competitive).

- A. Items or services available on a GSA (Govt. State Agencies) or OGS (Office of General Services) contract.
- B. Blanket or Requirement contracts created by other municipalities that allow piggy-backing.
- C. Emergency Procurement (see section VI)
- D. Professional Service Contracts (see section VII)
- E. Preferred Source Vendors (see section VIII)
- F. Sole Source (see section IX)

## **VI EMERGENCY PROCUREMENT**

General Municipal Law defines a "public emergency" as "arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of the City require immediate action which cannot await competitive bidding". Detailed below are the steps for utilizing the Emergency Procurement method:

- A. Obtain in writing (either email or formal written approval) from the City Manager authorization to commence emergency work or procure materials to mediate the hazard or danger.
- B. Once approval is granted by the City Manager, and when practical obtain at least 3 written or verbal vendor quotes.

- C. Department(s) remediating the emergency authorizes the vendor to commence work or deliver materials.
- D. Within 24 hours of the emergency declared and approved by City Manager, the Department will enter a requisition into KVS and attach all supporting documentation to the requisition.
- E. The Office of the Comptroller will approve the requisition and issue a Purchase Order.

## **VII PROFESSIONAL SERVICES**

Professional Services are defined in New York case law and Comptroller opinions. As a general guideline, Professional Services required specialized or technical skills or expertise, training, license or certification, exercise of judgment or discretion, a high degree of creativity and/or a relationship of personal trust and confidence. Examples of Professional Services include:

- A. Physicians
- B. Engineers
- C. Surveyors
- D. Attorneys
- E. Designers/Architects
- F. Insurance/Financial Service firms

## **VIII PREFERRED SOURCE EXCEPTION FOR PURCHASE CONTRACTS**

To advance special social and economic goals, certain providers have 'preferred source' status under the law. The acquisition of commodities and/or services from preferred sources is exempt from statutory competitive procurement requirements. Except in emergency situations, when commodities or good/services are available from a preferred source, they must be purchased from one of the preferred source providers identified below:

- A. The New York State Department of Corrections, Correctional Industries Program (CORCRAFT)
- B. Approved charitable non-profit making agencies for the blind
- C. Equal priority to qualified non-profit making agencies for all other severely disabled persons, a qualified special employment program for mentally ill persons or a qualified veteran's workshop.

## **IX SOLE SOURCE**

Sole Source procurement is an exception to the general rules and policies governing the procurement of goods and/or services. Sole Source procurement may only be used in rare and extraordinary cases where the goods or services sought and required

are manufactured, sold or performed by only one entity and/or individual. Generally, this will only apply to the following situations:

- A. Only one company in the world makes and sells a certain good or provides a certain service.
- B. Only one company in the world can service or maintain the equipment without voiding the warranty. (Note: this only applies during the warranty period. After warranty expiration, repairs and maintenance must be bid).
- C. Leasing equipment such as postal machines or copiers that have a certain type of consumable component (e.g. ink cartridges) that must be used to avoid breaching a warranty or a maintenance provision of a lease.
- D. Services performed by companies that traditionally have territories (e.g. cable TV or certain type of equipment dealerships).
- E. Software licensing and/or maintenance contracts specific to the software.

**In determining whether a purchase qualifies for a Sole Source exemption, the Office of the Comptroller must document at a minimum:**

- A. The unique benefits to the City of the product or service as compared to other products or services available in the marketplace.
- B. That no other product or service provides substantially equivalent or similar benefits.
- C. Determine the benefits received and the cost of the product or service is reasonable in comparison to other products or services in the marketplace.
- D. There is no possibility of competition from competing dealers or distributors.

## **X PROCESSING PAYMENTS**

Once supplies/materials are delivered and/or services rendered, the Office of the Comptroller will be responsible for issuing payments. Payments will be processed twice a week (Tuesdays and Thursdays). Below details the process for processing vendor payments:

- A. Vendor invoices are to be submitted directly to the Office of the Comptroller. Each invoice must include the Purchase Order number or contract number.
- B. The Office of the Comptroller will scan the invoice to an electronic filing system and send the invoice to the requesting Department for sign-off.
- C. The requesting Department is responsible for signing the invoice and sending it electronically back to the Office of the Comptroller. Signing the invoice confirms the supplies/materials were delivered and/or services rendered and the vendor can be paid.

- D. The Office of the Comptroller will process the payment by either issuing a check, EFT (Electronic Funds Transfer) or E-Payable.
- E. In cases where payments are processed against a requirement contract or a blanket order, the Office of the Comptroller will be responsible for tracking payments on an excel file. This will ensure invoice amounts do not exceed the amount authorized on the Purchase Order.
- F. In cases where payments are issued by voucher (e.g. medical bills, county and school taxes), the Office of the Comptroller will be responsible for preparing the payment voucher. All vouchers must be reviewed and approved by the City Comptroller before payment is processed

**This Policy takes effect January 1, 2014 and replaces all existing procurement policies issued by the City of Newburgh Office of the Comptroller.**