

## Chapter 127, PROCUREMENT POLICY

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

### ARTICLE I, Supersession of Statute [Adopted 5-19-1980 by L.L. No. 4-1980 (Sub-Part XLVIII of the 1970 Code)]

#### § 127-1. State law superseded.

Those parts of § 120 of the Second Class Cities Law which are inconsistent with § 103 of the General Municipal Law are hereby superseded and as superseded are abolished.

### ARTICLE II, Policies and Procedures [Adopted 9-21-1992 by Ord. No. 85-92 (Ch. 2, §§ 2-247 through 2-256, of the 1970 Code); amended in its entirety 4-17-1995 by Ord. No. 95-121]

#### § 127-2. Basic guidelines for quoting. [Amended 12-21-2022 by Ord. No. 22-184]

Basic guidelines for quoting are as follows:

A. All purchases of commodities:

<u>Amount of Purchase</u>	<u>Payment Method/Quote Required</u>
Up to \$50	Petty cash
\$50 to \$1,000	Discretion of the purchasing agent
\$1,000 to \$9,999	Telephone quote: 3 vendor minimum if available, approval by purchasing agent
\$10,000 to \$19,999	Written/fax quote: 3 vendor minimum if available and approval of Board of Contract and Supply
\$20,000 and over	Formal bid

B. All public works contracts:

<u>Amount of Purchase</u>	<u>Payment Method/Quote Required</u>
Up to \$9,999	The recommendation of the using department and approval of the purchasing agent, after 3 telephone proposals if available
\$10,000 to \$34,999	Written/fax quote: 3 vendor minimum if available and approval of Board of Contract and Supply
\$35,000 and over	Formal Bid

#### § 127-3. Determination of process to be used.

In determining which process is to be used (bid or quote), purchases shall be evaluated to determine cumulative dollar amounts expected in a given fiscal year. When necessary, canvassing of using departments will determine the annual value of the commodity. Past history can be taken into consideration when evaluating annual commodity costs. If the bid limit is expected to be exceeded, bidding shall take place. This decision shall rest with the purchasing agent. All quotes shall be sequentially numbered and the document filed in the City Purchasing Department. The quote number shall be reflected on the purchase document. If there are several comparable but separate purchases for the same or various locations in a reasonable and foreseeable time frame and the expected cumulative total is \$3,000 or more, there must be a written quote. Comparable purchases generally mean purchases that could be accomplished by one vendor.

#### § 127-4. Methods of procurement not covered by bidding.

Most purchases that fall in the stated dollar categories will be quoted by means of telephone quotes, written/fax quotes or requests for proposals. Due to past history or general knowledge, some purchases may be placed directly since the dollars saved will not offset the time expended to quote.

**§ 127-5. Documentation.**

All quotes (written or telephone) shall be documented on existing purchasing quote forms and sequentially filed in the respective year's files. All purchases resulting from the same quote shall have a quote number referenced on the purchase order or voucher to create an audit trail. All awards from quotes shall be made to the lowest responsible and responsive bidder if possible. In no event shall purchase orders, contracts or other forms of obligations be enacted without certification from the chief fiscal officer that funds are available for that purpose.

**§ 127-6. Exceptions to lowest price (award).**

- A. From time to time procurement may be made by other than the lowest price quoted if, in the opinion of the department head, purchasing agent and Comptroller, the best interests of the City would be served. The reasons could be unusual delivery requirements, minimum quantities, location of vendor, commodity not available in a timely manner, a product with known defects being offered, incompatibility of a part to existing machinery, unfamiliarity with the facility or machinery, electrical or plumbing requirements, unique skills required, etc. In all such cases, the purchase records will document the reasons.
- B. If the required number of quotes set forth in § 127-2A and B are not available, the purchasing agent or the Board of Contract and Supply will provide written documentation of attempts to obtain said quotes. Such information will be included in the Board of Contract and Supply minutes, where applicable.

**§ 127-7. Exceptions to City bidding. [Amended 10-18-2023 by Ord. No. 23-137]**

- A. Where emergency conditions exist which could or would result in personal injury, loss of property or affect public or employee health, the Board of Contract and Supply may waive the above requirements with written cause; provided, however, that prudent actions be taken to secure the least total cost method of completing the project, consistent with the nature of the emergency.
- B. Cooperatively bid or intermunicipal cooperation agreements with Broome County, the City school district, New York State or other municipal corporations where the City participates through a competitive bid process do not require bids.
- C. Surplus and secondhand purchases from other governments do not require bids.
- D. Sole Source. Where only one vendor can supply the commodities, technology and/or perform the services required, before making an award to such sole source, the following determinations shall be made:
  - (1) the material and substantial reasons for such sole source status;
  - (2) the alternatives considered; and
  - (3) the basis upon which it determined the cost was reasonable.

- 1. Such determinations shall be made by one (1) member of the City Council and two (2) additional individuals selected by the Board of Contract and Supply who may be helpful in reviewing the qualifications and selecting the best-qualified firm for the project. Upon such approval of sole source, a recommendation will be sent to the Board of Contract and Supply for their approval.

2. Such determinations shall be supported by a letter on the contractor's letterhead confirming the sole source status, including, without limitation, an explanation of why the contractor is a sole source; and an explanation of why the cost of the products or services are reasonable
- E. Single Source. Where two (2) or more vendors can supply the commodity, technology and/or perform the services required by an agency, but the City selects one (1) vendor over the others for unique circumstances or reasons such as special expertise or previous experience with similar contracts, before making an award to one contractor over others, the following determination shall be made:
- (1) the material and substantial reasons for such single source status including the unique circumstances or specific expertise which indicate a single source designation;
  - (2) the alternatives considered; and
  - (3) the basis upon which it determined the cost was reasonable.
1. Such determinations shall be made by one (1) member of the City Council and two (2) additional individuals selected by the Board of Contract and Supply who may be helpful in reviewing the qualifications and selecting the best-qualified firm for the project. Upon such approval of single source, a recommendation will be sent to the Board of Contract and Supply for their approval.
  2. Such determination shall be supported by a letter on the contractor's letterhead confirming the single source status, including without limitation, and explanation of why the contractor is single source; and an explanation of why the cost of the products or services are reasonable.
- F. Whenever the method of procurement of any commodity is not covered by the bidding process a preference shall be given to businesses or sources located within the City of Binghamton, however, such preference maybe overcome if it would not serve the best interests of the City of Binghamton. Such reasons could be unusual delivery requirements, minimum quantities, location of vendor, commodity not available in a timely manner, a product with known defects being offered, incompatibility of a part to existing machinery, unfamiliarity with the facility or machinery, electrical or plumbing requirements, unique skills required, etc. In all such cases, the purchase records will document the reasons. [Added 12-19-2005 by Ord. No. 05-88]

**§ 127-8. Mandated sources.**

Mandated procurement sources shall be investigated when products offered are requested by using departments. These sources include Department of Correction, Industries for the Blind of New York State, and the New York State Industries for the Disabled.

**§ 127-9. Insurance.**

All agreements for insurance coverage will be investigated by the City. If competition is available in the market, requests for proposals will be issued, proposals will be evaluated and an award made. If no competition is available, a contract will be negotiated between the City and the respective carrier.

**§ 127-10. True leases.**

Regulations regarding true leases are as follows:

- A. Prices will be obtained through the use of price quoting when possible. Evaluation of services and prices shall determine the successful vendor.
- B. Disposal sites for the City refuse/yard waste and similar purposes will be considered leases for purposes of this section.

**§ 127-11. Professional services and consultants. [Amended 11-16-1998 by Ord. No. 98-145; Amended 6-15-09 by Ord. No. 22-2009; Amended 2-12-16 by Ord. No. 16-05]**

The following shall apply to contracts for professional services and consultants:

A. Services covered and selection criteria.

- (1) Professional services are services requiring special or technical skill, training or expertise. The firm or company must be chosen on the basis of accountability, reliability, responsibility, skill, education and training, judgment, integrity and, in necessary cases, highly specialized expertise as demonstrated by successful experiences in the provision of services of a closely related nature. These qualifications are not necessarily found in the individual or company that offers the lowest price, and the nature of these services is such that they do not readily lend themselves to competitive procurement procedures. In determining whether a service fits into this category, the City shall take into consideration the following guidelines:
  - (a) Whether the services are subject to state or local licensing or other professional certification 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:
  - (a) Services of an attorney or physician.
  - (b) Services of an engineer, architect or land surveyor.
  - (c) Securing insurance coverage and/or services of an insurance broker.
  - (d) Services of a certified public accountant.
  - (e) Investment management services.
  - (f) Printing services involving extensive writing, editing or artwork.
  - (g) Management of municipally owned property.
  - (h) Inspection services by a licensed or certified technical discipline.
  - (i) Computer software or programming services for customized programs or services involved in substantial modification and customizing of prepackaged software.
- (3) Professional services shall not include the following:
  - (a) Predemolition surveys for demolition of City-owned facilities.
  - (b) Routine testing of material used in construction of City facilities.
  - (c) Computer services, including setting up, installing and servicing City computer systems.

B. Policy.

- (1) It shall be the policy of the City to give preference to qualified local firms whose principal offices are located within the County of Broome. Where special expertise, not available within the county, is required, a team or joint venture approach may be encouraged where an out-of-town firm with particular expertise works with a local firm; when there is no significant element of the project outside of the discipline of the required special expertise, the joint venture approach will not be required for an out-of-town firm to be selected.
- (2) It shall be the policy of the City to utilize the services of the various qualified local firms, when results of evaluations of selection criteria and proposed fees for similar projects are consistently relatively equal, on an impartial basis.
- (3) It shall also be the policy of the City to openly announce requirements for professional services which exceed \$10,000 and to negotiate contracts for same on the basis of demonstrated competence and qualifications for the type of professional services required, and at fair and reasonable prices.

C. Thresholds for contract award.

<u>Amount of Contract</u>	<u>Contract Specifications</u>
\$0 to \$10,000	Contract negotiated by administration; rate must be competitive; contract awarded by Board of Contract and Supply
Over \$10,000	Awarded by the City Council pursuant to procedures below
Greater than \$10,000	Awarded by the City Council pursuant to procedures below; request for proposals required

- (1) City Council must approve any contracts for professional services exceeding \$10,000; provided, however, that during any calendar year where the cumulative amount of professional service contracts awarded by the Board of Contract and Supply equals \$60,000 or more, the threshold drops to \$1,000 for City Council approval of additional contract, unless otherwise permitted.
  - (2) Solicitations of proposals for professional services by publication of an official notice in the City's designated newspaper of record, with mailing to interested firms on request, will be required where the cost is reasonably expected to exceed \$10,000.
- D. Additional procedures for engineering, architectural and surveying services. Procedures for quality-based selection of engineering, architectural and survey services are as follows:
- (1) Solicitation of qualification statements for professional services by publication of an official notice in the City's designated newspaper of record, with mailing to interested firms, on request, for fees expected to exceed \$10,000.
  - (2) The request for qualifications from consulting firms shall include the minimum qualifications desired, a description and nature of the project, a projected schedule and project budget. No proposal fee is to be requested or accepted from any firm.
  - (3) Qualification statements shall be submitted to the Board of Contract and Supply by the required date and time. Qualification statements received shall be recorded in the minutes of the next regularly scheduled Board meeting and the proposals shall be forwarded to the City Engineer. The submissions shall be handled as follows in Subsection E(4) through (11).
  - (4) The City Engineer shall assemble a review committee of three to five individuals. The review committee shall consist of at least the City Engineer, the Chairman of the City's Public Works Committee and the client department head or designee. In addition, the committee may select two more individuals who may be helpful in reviewing the qualifications and selecting the best-qualified firm for the project.
  - (5) Each committee person shall review the qualifications statement of each firm and rate them using the following criteria:
    - (a) Qualifications of individuals designated to work on the project.
    - (b) Past performance and experience of the firm on projects similar in type and magnitude.
    - (c) Familiarity with project location and area.
    - (d) Approach to project.
    - (e) Resources available to the firm to perform the work.
  - (6) The committee will then short-list the firms to the three most qualified.
  - (7) The short-listed firms shall then be invited in for an interview before the committee. The interview shall consist of a brief presentation and questions and answers.
  - (8) Following the interview, the committee shall meet and rank the firms from highest qualified to least qualified.
  - (9) The ranking of the firms shall then be submitted to City Council's Public Works Committee for review and approval.
  - (10) After approval, the City Engineer and the client department shall enter into negotiations with the No. 1 ranked firm on the exact scope of the work. Once the scope of work has been negotiated, then the consultant shall present the detailed fee schedule. If the fee is not acceptable, then the scope of work shall be renegotiated.

- (11) If the City and the consultant cannot reach an agreement on the scope of work and fees, then negotiations shall be terminated and negotiations with the second-ranked firm will begin.

E. Exceptions.

- (1) The above procedures will apply except as otherwise provided in § 201 of Second Class Cities Law, Permanent Ordinance No. 85-72 regarding self-insurance and expenses incurred in the issuance of bonds, notes or other debt instruments when the City Council has authorized the power to issue bonds and notes to the chief fiscal officer; golf professional; and confidential legal or appraisal services are required by the Corporation Counsel's office.
- (2) When the professional services desired are to update or expand on existing plans, specifications, design, software maintenance and other professionally produced documents where there is no possibility of price competition or continuity of services is deemed in the best interest of the City, the City shall negotiate a reasonable price for the extension of the existing work.