



NY GovBuy

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Purchasing Do's and Don'ts

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Complying with General Municipal Law 104-b

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Statutory Backdrop

General Municipal Law Section 103 requires that award be made to the lowest *responsible* bidder submitting a bid in response to an advertised bid

- **Requires a “sealed bid”**
- **Responsiveness of the bidder must be determined first**
- **Once responsiveness determined, review of bidder to determine its responsibility**





Statutory Backdrop

- **General Municipal Law section 104-b:**
 - **Applies to procurement of goods/services which are not subject to competitive bidding pursuant to General Municipal Law Section 103**
 - **Requires Board to adopt policy/ procedures outlining how procurements will be made**



Structure of the Purchasing Policy

- **Many municipalities adopt a Procurement Policy with accompanying regulations to comply with the requirements of General Municipal Law 104-b**
- **The policy, together with the regulation, must include all of the minimum requirements to be in compliance with the law**

Purchasing “Do’s” – Policy Review and Adoption

- When developing/reviewing a purchasing policy or procuring goods/services:
 - Have the governing body adopt and review its purchasing policy annually
 - Ensure that the policy includes the legally required minimum provisions
 - Ensure that the policy addresses procurements where federal grant money is being used
 - Prior to procuring goods/services, **ALWAYS** refer back to the policy for the proper method of procurement

Purchasing “Do’s” – Policy Review and Adoption

For procurements which fall below the competitive bidding thresholds:

- **Procedures for determining whether the procurement is subject to competitive bidding and, if not, documentation indicating the reason why**
- **Type/category of procurement should be included**
- **When the category will be used**
- **Specify dollar thresholds (where applicable) which will be utilized in procuring the goods/services**
- **Method for documenting action taken**
- **When award made to other than lowest responsible offeror, an explanation of why the award was not made to that entity**

Purchasing “Do’s” – Policy Review and Adoption

- **When alternative proposals or quotations will not be required (e.g. State/County contract, professional services):**
 - **indicate why it is not in the best interest of the municipality to secure alternative proposals/quotations**
 - **indicate what type of documentation will be required**
 - **indicate the manner in which alternative proposals or quotations will be solicited if the governing board decides to seek proposal**

Purchasing “Do’s” – Application of Policy

- **When making purchases of goods/services:**
- **Communicate purchasing procedures to all individuals responsible for making purchases**
- **Ensure that procurement methods comply with law and policy**
- **Properly determine whether the procurement requires a competitive bid under GML 103**
- **Ensure that bid specifications are written to encourage competition from multiple vendors**



Purchasing “Don'ts”

- **DO NOT procure goods/services in violation of the purchasing policy**
- **DO NOT procure goods/services without referring to the proper method of procurement set forth in the purchasing policy**
- **DO NOT utilize a contract from another State/political subdivision for public works contracts**
- **DO NOT let a bid using the best value method without developing the best value criteria to be used in connection with the purchase**
- **DO NOT issue a PO after goods/services have been ordered or received from a vendor**



Purchasing “Don'ts”: Professional Services

- **DO NOT procure professional services without following the method for such procurement**
- **DO NOT procure professional services without documenting the method used for solicitation**
- **DO NOT procure professional services without a written letter of engagement or contract which outlines the services to be provided and the price to be paid for said services**



Purchasing Do's and Don'ts

QUESTIONS