

Chapter 88

PEDDLING AND SOLICITING

§ 88-1. License required.

§ 88-3. Applicability.

§ 88-2. License fee.

§ 88-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Champlain 4-13-1932 as Ord. No. 59. Sections 88-1 and 88-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. 81.

§ 88-1. License required.¹

No person, except honorably discharged United States soldiers, sailors or marines who were crippled as a result of injuries received while in naval or military service or the holder of a license granted pursuant to § 32 of the General Business Law, who is a resident of the State of New York shall offer any goods or property for sale by public auction, nor shall any person hawk, vend, peddle or solicit orders for goods, wares, merchandise or other commodities, except the peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities, or cry his goods, wares, merchandise or other commodities in the streets and public places and by going from house to house or distribute and peddle handbills, pamphlets, tracts and other like matter in the streets or by going from house to house, without having a license therefor.

§ 88-2. License fee.

A license may be granted by the Board of Trustees for such purposes at the rate of not more than \$75 per day.

§ 88-3. Applicability.

Nothing in this chapter shall be construed to prevent sales under judgment, execution or authority conferred by statute or in satisfaction of specific liens.

§ 88-4. Penalties for offenses.²

Any violator of this chapter shall, upon conviction thereof, be subject to a fine not to exceed \$250 or to imprisonment for a term not to exceed 15 days, or both.

1. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

2. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 89

PROCUREMENT POLICY

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| § 89-1. Review of purchase types; competitive bidding; documentation. | § 89-5. Exemptions from solicitation. |
| § 89-2. Requests for proposals; exceptions. | § 89-6. Comments from officers; conflicts of interest. |
| § 89-3. Method of purchase. | § 89-7. Annual review; actions against village; when effective. |
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[HISTORY: Adopted by the Board of Trustees of the Village of Champlain 4-26-1993 by L.L. No. 2-1993.¹ Amendments noted where applicable.]

§ 89-1. Review of purchase types; competitive bidding; documentation.

- A. 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/service is not subject to competitive bidding. The following items are not subject to competitive bidding pursuant to § 103 of the General Municipal Law: purchase contracts under \$10,000 and public works contracts under \$20,000; emergency purchases; goods purchased from correctional institutions; purchases under state and county contracts; and surplus and secondhand purchases from another governmental entity.
- B. The decision that a purchase is not subject to competitive bidding will be documented, in writing, by the individual making the purchase. The 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.

§ 89-2. Requests for proposals; exceptions.

- A. All goods and services will be secured by use of written requests for proposals (RFP), written quotations, verbal quotations, village purchase requisitions or any other method that assures that goods will be purchased at the lowest price and that favoritism will be

1. Editor's Note: A preamble to this local law, entitled "Purpose," reads as follows: "Goods and services which are not required by law to be procured pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of public moneys, in the best interest of the taxpayers, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud and corruption. To further these objectives, the Board of Trustees is adopting internal policies and procedure governing all procurement of goods and services which are not required to be made pursuant to the competitive bidding requirements of General Municipal Law § 103 or of any other general, special or local law."

avoided, except in the following circumstances; purchase contracts over \$10,000; public works contracts over \$20,000; goods purchased from agencies for the blind or severely handicapped pursuant to § 175-b of the State Finance Law; goods purchased from correctional institutions pursuant to § 186 of the Correction Law; purchases under state contracts pursuant to § 104 of the General Municipal Law; purchases under county contracts pursuant to § 103, Subdivision 3, of the General Municipal Law; or purchases pursuant to § 89-5 of this chapter.

- B. Opportunity shall be provided to all responsible suppliers to do business with the village. To this end, each department head or his/her designee will develop and maintain lists of potential suppliers/bidders for the various types of materials, equipment and supplies. Such lists shall be used in the development of a mailing list for distributions of specifications and invitations to bid. Any supplier may be included in the list, upon request.
- C. Supplies used by various departments should be uniform whenever consistent with operational goals and in the interest of efficiency of economy. The department head must justify the need for a special type of item; the Board of Trustees must evaluate the request for special supplies or service which only one vendor may supply.
- D. Material data sheets. The Right To Know Law requires employers to inform employees of health effects and hazards of toxic substances at the work site;² thus purchase requisitions for such substances will require each purchase requisition to state: "NOTICE: PAYMENT CONTINGENT UPON Receipt of Material Safety Data Sheet (MSDS) with invoice for hazardous substances on this order; Section 876(4) N.Y. Labor Health Laws."

§ 89-3. Method 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	Minimum	Method
\$250 to \$2,999	(2)	Verbal quotations
\$3,000 to \$9,999 <i>29,999</i>	(3)	Written/fax quotations; written request for proposals

Estimated Amount of Public Works Contract	Minimum	Method
\$250 to \$2,999	(2)	Verbal quotations
\$3,000 to \$4,999	(2)	Written/fax quotations
\$5,000 to \$19,999 <i>34,999</i>	(3)	Written/fax quotations written request for proposals

2. Editor's Note: See § 875 et seq. of the Labor Law.

- 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 procurement.

§ 89-4. Documentation required.

- A. Documentation is required of each action taken in connection with each procurement. The original documentation shall be placed in the file concerning the item to be purchased.
- 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.

§ 89-5. Exemptions from solicitation.

Pursuant to General Municipal Law § 104-b, Subdivision 2f, the procurement policy notes the following circumstances which may not be in the best interests of the Village of Champlain 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.
 - (2) In determining whether a services fits into this category, the Board of Trustees shall take into consideration the following guidelines: whether the services are subject to state licensing or testing requirements, whether substantial formal education or training is a necessary prerequisite to the performances of the services and 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 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.
 - (1) Three basic statutory criteria must be met in order to fall within this exception:

- (a) The situation arises out of an accident or unforeseen occurrence or condition;
 - (b) Public buildings, public property or the life, health, safety or property of the village residents are affected; and
 - (c) The situation requires immediate action which cannot await competitive bidding.
- (2) Even when the Board of Trustees passes a resolution that a public emergency exists, the public interest dictates that purchases be made at the lowest possible costs, seeking competition by informal soliciting of quotes, or otherwise, to the extent practicable under the circumstances.
- C. Goods and services under \$250.
- (1) 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 de minimis contracts would be awarded based on favoritism.
 - (2) The following method of purchase will be used when value of goods and services is under \$250:
 - (a) Clearly itemized bill/invoice.

§ 89-6. Comments from officers; conflicts of interest.

- A. Comments concerning the policies and procedures shall be solicited from officers of the Village of Champlain therein involved in the procurement process prior to the enactment of the policies and procedures and will be solicited from time to time hereafter.
- B. No trustee, village officer or employee shall be interested financially in any contract entered into by the village. This also precludes acceptance of gratuities, financial or otherwise, by the above person(s) from any supplier of material or services to the village.
- C. It is absolutely prohibited by law to purchase goods or services for nonvillage use.

§ 89-7. Annual review; actions against village; when effective.

- A. The Board of Trustees shall annually review these policies and procedures. The Mayor shall be responsible for conducting an annual review of the procurement policy and for an evaluation of the internal control structure established to ensure compliance with the policy.
- B. The unintentional failure to comply fully with the provisions of this General Municipal Law § 104-b shall not be grounds to void action taken or given rise to a cause of action against the Village of Champlain or any officer or employee thereof.

- C. This policy shall be reviewed annually and go into effect immediately upon the filing with the Secretary of State.

§ 89-8. Award based on low bid or best value. [Added 2-10-2014 by L.L. No. 1-2014]

- A. Purpose. The Village Board seeks to exercise the local option set forth in § 103, Subdivision 1, of the New York General Municipal Law, as amended by Chapter 608 of the Laws of 2011 and Chapter 2 of the Laws of 2012, which amendment authorized the Village to award purchase contracts and contracts of services subject to competitive bidding and/or competitive request for proposals under General Municipal Law § 103 on the basis of either lowest responsible bidder or "best value," as defined in § 163 of the New York State Finance Law. The best value option may be used if it is more cost efficient over time to award the good or service to other than the lowest responsible bidder on factors such as lower cost of maintenance, durability, higher quality and longer product life.
- B. Award based on low bid or best value. The Village Board may award purchase contracts and service contracts that have been procured pursuant to competitive bidding and/or competitive request for proposals under General Municipal Law § 103 by either lowest responsible bidder or best value.
- C. Applicability. The provisions of this chapter apply to Village purchase contracts involving an expenditure of more than \$20,000 and Village contracts for services involving an expenditure of more than \$35,000, but exclude purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the State Labor Law and exclude any other contract that may in the future be excluded, under state law from the best value option. If the dollar thresholds of General Municipal Law § 103 are increased or decreased in the future by the State Legislature, the dollar thresholds set forth herein shall be deemed simultaneously amended to match the new General Municipal Law thresholds.
- D. Standards for best value. Goods and services procured and awarded on the basis of best value are those that the Village Board determines will be of the highest quality, while being the most cost efficient. The determination of quality and cost efficiency shall be based on objectively quantified and clearly described and documented criteria, which may include, but shall not be limited to, any or all of the following: cost of maintenance; proximity to the end user if distance or response time is a significant term; durability; availability of replacement parts or maintenance contractors; and longer product life; product performance criteria; and quality of craftsmanship.
- E. Documentation. Whenever any contract is awarded on the basis of best value instead of lowest responsible bidder, the basis for determining best value shall be thoroughly and accurately documented.

