

**A RESOLUTION ADOPTING A REVISED PROCUREMENT POLICY
AND PROCEDURE FOR THE TOWN OF CONKLIN**

At a meeting of the Town Board of the Town of Conklin, Broome County, New York, held at the Town Hall on the ___^h day of _____, the following resolution was offered:

WHEREAS, Section 104-b of the General Municipal Law requires the governing body of every municipality to adopt internal policies and procedures governing all procurement of goods and services which are not required by law to be competitively bid; and

WHEREAS, comments have been solicited from all officers in the Town of Conklin involved in the procurement process; and

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Conklin, in regular session duly convened, that the Town of Conklin does hereby adopt the procurement policy attached hereto which is intended to apply to all goods and services purchased by the Town.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately

CERTIFICATION

I, Sherri L. Jacobs, Town Clerk, do hereby certify that I am the Town Clerk of the Town of Conklin and that the foregoing constitutes a true, correct and complete copy of a resolution duly adopted by the Town Board of the Town of Conklin at a meeting thereof held at the Town Hall on the ___^h day of _____. Said resolution was adopted by the following roll call vote:

Supervisor Finch	Voted _____
Councilman Boyle	Voted _____
Councilman Bullock	Voted _____
Councilman Dumian	Voted _____
Councilman Francisco	Voted _____

The resolution was thereupon declared duly adopted by a vote of _____.

Dated: _____

Town of Conklin Seal

**PROCUREMENT POLICIES AND PROCEDURES
FOR THE TOWN OF CONKLIN**

I. Procedures for determining whether competitive bidding is required.

A. Procedure: Every prospective purchase or contract must be initially reviewed to determine whether it is a "purchase contract" or a "public works contract". Purchase contracts involve the acquisition of commodities (materials, supplies, or equipment), while contracts for public work involve services, labor, or construction. When a contract involves acquisition of both goods and services, the Town shall review, on a case-by-case basis, the "total character" of each procurement. If a contract involves a substantial amount of services so that the acquisition of commodities is only incidental to the work, or when the component of the contract requiring goods cannot be separated from the services, the Town shall consider it a contract for public work for the purposes of the determining the monetary threshold. Conversely, if services or labor are only minor or incidental to the acquisition of goods, the Town shall consider it a purchase contract.

Once the procurement is determined to be a purchase contract or a public works contract, the procurement must be examined and categorized as follows:

1. Competitive Bidding (award procurement to "lowest responsible bidder") or Competitive Offering (award procurement based on "best value") is required for:

- a.) Purchase contracts of more than \$20,000.00; and
- b.) Contracts for public works of more than \$35,000.00.

However, competitive offering (best value awards) cannot be used for purchase contracts necessary for the completion of a public works contract covered by the prevailing wage provisions of Article 8 of the State Labor Law.

2. Analysis of the monetary threshold:

a.) In determining whether the monetary thresholds in (A)(1) above will be exceeded, the Town shall consider the aggregate amount reasonably expected to be expended for all purchases of the same commodities, services or technology to be made within the twelve-month period commencing on the date of purchase, whether from a single vendor or multiple vendors. Commodities, services or technologies that are similar or essentially interchangeable will be considered as the "same" for this purpose. Prior years' budgetary appropriations should be referred to for this information and compared with current projections.

b.) No portion of this resolution shall be construed as preventing the competitive bidding or competitive offering of purchase contracts which are \$20,000 or less or public works projects which are \$35,000 or less, if so desired.

3. Competitive Bidding and Competitive Offering is not required: Even if procurement is over the monetary thresholds described in (A)(1) above, competitive bidding/offering is not required if the procurement falls into any of the categories listed below. Furthermore, such categories are not subject to the requirements of Section II below unless otherwise stated therein:

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, judgment, integrity and moral worth. In determining whether a service is a "professional" service, the following shall be considered:

- (1) Whether the services are subject to state licensing or testing requirements;

- (2) Whether substantial formal education or training is a necessary prerequisite to the performance of the services; and
- (3) Whether the services require a personal relationship between the individual and municipal officials.

Professional and technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer or architect 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 artwork; 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 (GML § 103(4))—Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to competitively bid or seek alternate proposals may threaten life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits. Where by virtue of the nature of the emergency option, a review by the Town Board is not available, approval may be given by the Town Supervisor or Acting Town Supervisor, or any Town Board Member of the appropriate legislative committee.

c.) Purchases of surplus/second-hand materials, supplies, equipment from the Federal government, the State of New York or from any other political subdivision, district or public benefit corporation (GML § 103 (6))—If alternate proposals are required herein, the Town is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually contained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

d.) Goods under \$1,000 and public works contracts for less than \$1,000—The time and documentation required to purchase through this policy may be more costly than the item itself and 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.

e.) Sole Source—When it can be justified that a supplier is the only source which can manufacture a product or provide a service so that there is no possibility of competition (i.e. patent, directed by law, possesses unique expertise).

f.) Single Source—Source identified as the result of previous standardization of a specific purchase when there are no other suppliers of that item for the Town service area.

g.) Lease of equipment with operators so long as the project is under the complete control and supervision of the Town—However, in such event competitive proposals are to be solicited from vendors who can provide a similar type service when the Town wishes to make such leases or rentals in the future; and any lease or rental rates shall be subject to the prior approval of the Town Board.

h.) Other—Procurements made pursuant to General Municipal Law § 103(3) (through certain county contracts), § 103(8) (certain municipal hospital or nutrition program purchases), § 103(9)-(10) (certain food and milk purchases), § 104 (through certain State and Federal contracts), State Finance Law § 162, Correction Law §§ 184 and 186 (from “preferred sources,” including articles manufactured in correctional institutions), or pursuant to any other exemption of recognized by the laws of the State of New York.

B. Documentation - Determination that purchase contract or public works contract is or is not subject to competitive bidding/offering requirements shall be documented as follows, and kept with the records of the purchase:

1. Copies or notations of all written dollar amounts.
2. Notation of all verbal dollar amounts.
3. Where appropriate, reference to prior years budgetary purchase amount information.
4. For all items determined not to be subject to competitive bidding for reasons other than dollar amount, a written notation of the facts justifying the particular category of exception must be made.
5. In the case of "best value", the basis for determining best value, as well as the justifications behind choosing "best value" rather than competitive bidding for the relevant contract must be thoroughly and accurately documented.
6. If full compliance with these documentation requirements is not practical, a note of explanation shall be made and placed with the purchase records.

II. Methods of Competition to be used for Non-Bid Procurement: When competitive bidding/offering is not required, the Town shall utilize the following requirements for achieving competition:

Contract/Purchase (estimated cost)	Verbal Quotes			Written Quotes		RFP
	0-1	2 or more	3 or more	2	3 or more	
Purchase Contracts						
Up to \$250	X					
\$251 - \$1,000	X					
\$1,001 - \$2,000		X				
\$2,001 - \$10,000				X		
\$10,001 - \$19,999						X
\$20,000 or above						X
Contracts for Public Works						
Up to \$1,000	X					
\$1,001 - \$5,000				X		
\$5,001 - \$10,000					X	
\$10,001 - \$20,000						X
\$20,001 - \$34,999						X
\$35,000 or above						X
Professional Services						
Up to \$2,000						X
\$2,001 - \$4,000						X
\$4,001 - \$20,000						X
\$20,000 or above						X

A. A good faith effort shall be made to obtain the required number of proposals or quotations. However, it is acknowledged that, though the suggested number of quotes should be diligently sought, they may not always be practically available. The Town shall compile a list of all vendors from whom quotes or proposals were requested and the specific quotes or proposals offered. All available verbal and written quotes and

proposals shall be presented to the Town Board, which shall determine whether the proposed procurement is cost effective and in the best interest of the Town.

B. Documentation of actions taken in connection with each such method of procurement is required as follows: Attached to the purchase documents (i.e. invoices, voucher, bill, etc.) shall be notes of any verbal quotes and notations of or copies of any written quotes, any requests for proposals responses, or other proposals, contracts, or other documentation of the non-bid procurement process. If a vendor or contractor is not deemed responsible or responsive to the request, facts supporting that judgment shall also be documented and filed with the records supporting the procurement. If full compliance with this provision is not practical, a written note of explanation shall be made and placed with the purchase records. In no event shall the failure to obtain the specified number of quotations or proposals be a bar to procurement.

III. Awards to Other Than Lowest Responsible Bidder:

A. If the Town has a local law that would allow a contract to be awarded based on the “best value” standard, the Town Board shall comply with that local law.

B. Whenever any contract is awarded to other than the lowest responsible dollar bidder, the reasons such an award furthers the purpose of General Municipal Law § 104-b as set forth herein above shall be documented as follows:

Notations and/or copies of all documents, and notations of verbal or other data justifying why any purchase is made from other than the lowest responsible vendor or contractor submitting a complying quotation or proposal, as being in the best interest of the government unit, shall be included with the purchase records. If full compliance with this provision is not practical, a written note of explanation shall be made and placed with the purchase records

IV. “Piggybacking” Law: The Town may “piggyback” onto another governmental contract in accordance with General Municipal Law and upon consultation with the Town’s legal counsel.

A. Contract subject to Piggybacking: Pursuant to Section 103(16) of the General Municipal Law, purchases of goods and services may be made through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision or district therein. The contract must be let in a manner that consistent with New York State competitive bidding law (public solicitation of sealed bids, bid specifications, award to lowest responsible bidder or best value bidder, etc.) and the contract must be made available for use by other governmental entities. Piggybacked contracts are not subject to the competitive bidding requirements of Section 103 of the General Municipal Law.

B. Authorization to Piggyback: Pursuant to and in accordance with GML section 103(16), the Town of Conklin is hereby permitted to “piggyback” off of other municipal contracts, as described above, as well as, in the Town’s discretion, make available its own purchase and public works contracts to other appropriate municipalities.

V. Input from Officers:

The Town shall solicit input and comments from officers of the Town who are involved in the procurement process prior to the enactment of new or revised policies and procedures.

VI. Annual Review:

The Town Board shall annually review these policies and procedures. The Town Supervisor 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 procurement policy. It is contemplated that the annual review will be made during annual budget preparation, or such other time as the Town Supervisor may designate.

VII. Deviations; Unintentional Failure to Comply:

It is the purpose of this policy to assist Town officials in obtaining the best value for the Town of Conklin, New York, consistent with the stated purpose of this resolution. It is acknowledged that perfect compliance is not always practical. In such cases, consistent with the requirement of GML § 104, the reasons for any deviations shall be noted with the purchase files. Furthermore, the unintentional failure to fully comply with the provisions of this General Municipal Law § 104-b shall not be grounds to void action taken or give rise to a cause of action against the Town of Conklin or any officer or employee thereof.

VIII. CDBG Procurement:

For CDBG-DR procurement actions undertaken on or after January 1, 2017, the Town of Conklin shall comply with the procurement standards as set forth in 2 CFR Parts 200.317 through 200.326. In the event of a conflict between State or local laws and regulations and the procurement requirements of 2 CFR Part 200, the more stringent requirements will apply.

OFFERED BY:

SECONDED BY:

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE FOLLOWING PROCEDURES AND POLICIES FOR THE Town of Conklin FOR THE PROCUREMENT OF GOODS AND SERVICES NECESSARY FOR THE IMPLEMENTATION OF PROJECTS FUNDED BY THE GOVERNOR'S OFFICE OF STORM RECOVERY OF THE NEW YORK STATE HOUSING TRUST FUND CORPORATION

WHEREAS, the Town of Conklin has entered into a subrecipient agreement with the Governor's Office of Storm Recovery, an office of the New York State Housing Trust Fund Corporation, that provides funds for eligible Community Development Block Grant – Disaster Recovery (CDBG-DR) expenditures; and

WHEREAS, the subrecipient agreement requires procurement activities funded in whole or in part with CDBG-DR funds to be conducted in compliance with applicable United States Department of Housing and Urban Development (HUD) procurement regulations as well as applicable state and local law; and

WHEREAS, on December 26, 2013, the Office of Management and Budget (OMB) published (at 78 Federal Register 78608) the "*2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*" that superseded the HUD procurement provisions of 24 CFR Parts 84 and 85; and

WHEREAS, HUD has issued new procurement standards as set forth in Notice: SD-2015-01: Transition to 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance* and in Notice: CPD-16-04 Additional Transition and Implementation Guidance for Recipients of Community Planning and Development (CPD) Funds for 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*; and

WHEREAS, the Town of Conklin desires to revise and amend its procurement procedures to be consistent with the HUD Notices on 2 CFR Part 200; and

WHEREAS, the Town of Conklin desires to apply the amended and revised procurement procedures to future CDBG-DR procurements.

NOW, THEREFORE BE IT RESOLVED by the Governing Board, on behalf of the Town of Conklin that for CDBG-DR procurement actions undertaken on or after January 1, 2017, the Town of Conklin shall comply with the procurement standards as set forth in 2 CFR Parts 200.317 through 200.326. In the event of a conflict between State or local laws and regulations and the procurement requirements of 2 CFR Part 200, the more stringent requirements will apply.