

Office of the New York State Comptroller



Division of Local Government and School Accountability

LOCAL GOVERNMENT MANAGEMENT GUIDE

# Seeking Competition in Procurement



Thomas P. DiNapoli State Comptroller

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Seeking competition in procurement is important in our business and often in our personal lives too. In our personal lives, we seek competition instinctively when we shop at the grocery store, or when we purchase a new or used vehicle. No one needs to tell us that it's a smart idea to make price and quality comparisons between different stores and different manufacturers in an effort to obtain the most favorable terms for our own money.

In our business lives we also know that we need to seek competition, but rather than just relying on common sense, seeking competition is often required by State law or by locally adopted policy. If managed effectively, State and local procurement requirements can increase competition and reduce the cost of goods and services of acceptable quality. A fair and open competitive process will also help discourage favoritism in public procurements, encouraging additional vendors to compete for your business. Increasing your organizational knowledge about State and local requirements will help you create a proactive, competitive environment in your procurement function.

This guide provides an overview of the following procurement topics:

- Who is Responsible ?
- Planning and Promotion
- Seeking Competition
- E-Procurement
- Cooperative Purchasing
- Piggybacking on Certain Government Contracts
- Procurement Policies and Procedures
- Professional Services
- Preferred Sources
- Environmentally Responsible Purchasing
- Ethics and Conflicts of Interest.

In addition to these topics, Appendix A is provided to help you understand the types and dollar thresholds of purchases and contracts for public work subject to competitive bidding or to local policies and procedures. Appendix B will assist you in updating or creating your own procurement policies and procedures.

Seeking competition in public procurements can be a complex topic and the information contained in this guide is not a substitute for the services of your locality's attorney. This guide is designed as a layperson's guide to topics relevant to seeking competition. We encourage you to seek the advice of your attorney on legal issues pertaining to bidding and other aspects of your contractual arrangements for the acquisition of goods and services.

If managed effectively, State and local procurement requirements can increase competition and reduce the cost of goods and services of acceptable quality.

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## Planning and Promotion

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One of the best methods for ensuring that goods and services are acquired in a cost effective manner is to create as much competition as possible. In our personal lives, vendors compete for our business every day in the form of advertisements, holiday sales, and coupons. Competition for local government and school district dollars is not always as dynamic as what we experience in our own personal lives. To create as much market awareness as possible, local governments and school districts should carefully plan their solicitations for future procurements. Whether using formal competitive bids, competitive offerings, requests for proposals (RFPs), or written and verbal quotes, a well-planned solicitation effort is needed to reach as many qualified vendors as possible. If conducted properly, the competition generated from advance planning may save your locality money.

Advertising is the heart of seeking competition, and localities may benefit from publicizing their procurement needs (beyond required legal notices) to attract prospective vendors. Although not commonly used in government, some economical forms of disseminating information that treat all prospective vendors in a fair and equitable manner are certainly worth considering. For example, preparation of a pamphlet, such as a *"Guide to Doing Business with [Name of Unit]"* may help attract new vendors and encourage current vendors to keep their prices competitive. The pamphlet could include descriptions of the types of commodities commonly purchased, general instructions as to when certain types of bids or offers are usually solicited, the name of the official newspaper and any other places where advertisements for bids or offers will be published. Other helpful information would include: the location and business hours of the purchasing department or contact person, key telephone and fax numbers, and driving directions for the opening of bids or offers. Once developed, this type of pamphlet can be posted on your website and mailed upon request to prospective vendors.<sup>2</sup>

One of the best methods for ensuring that goods and services are acquired in a cost effective manner is to create as much competition as possible.

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<sup>2</sup> Any such method of dissemination of information should be undertaken in a way that treats all prospective vendors in a fair and equitable manner.



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## Seeking Competition

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One of the goals of seeking competition is to foster honest competition to enable your government to obtain quality commodities and services at the lowest possible cost. Seeking competition also guards against favoritism, extravagance and fraud, while allowing interested vendors a fair and equal opportunity to compete. Organizations that embrace the goals of seeking competition can realize both monetary benefits and product satisfaction from the time, effort and resources required to conduct statutorily required competition. To realize these benefits fully, procurement officials need to be knowledgeable about the requirements of competitive bidding and competitive offerings (i.e., “best value” awards).

**Monetary Thresholds** – Generally, local governments and school districts are required to advertise for competitive bids when procurements exceed certain dollar thresholds. Purchase contracts involving expenditures in excess of \$20,000 and contracts for public work involving expenditures in excess of \$35,000 are generally subject to competitive bidding under the law.<sup>4</sup> When using competitive bidding, contracts are awarded to the “lowest responsible bidder” after public advertisement for sealed bids. As further discussed below, local governments and school districts may elect to award “purchase contracts,” which exceed the monetary threshold, on the basis of “best value,” as an alternative to awarding contracts to the “lowest responsible bidder.”

There are several exceptions to the competitive bidding and competitive offering (“best value”) requirements, such as purchases made through the New York State Office of General Services, purchases made through certain county and federal contracts, purchases made through the use of certain contracts let by other states or political subdivisions, emergency purchases, professional services and purchases from a legitimate sole source. In addition, procurements of commodities and services may be required to be made from preferred sources. We discuss some of these exceptions and purchases from preferred sources later in this guide.

Seeking competition also guards against favoritism, extravagance and fraud, while allowing interested vendors a fair and equal opportunity to compete.

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<sup>4</sup> General Municipal Law, section 103(1). Although not within the scope of this guide, General Municipal Law section 101 (the “Wicks Law”) provides additional monetary thresholds and requirements for contracts for the erection, construction, reconstruction or alternation of buildings.

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**Specifications** – The specification document sets forth the standards and requirements that competitors must observe, and provides them with information necessary to prepare their bids or offers. Specifications should be clearly written. They should provide prospective vendors a common standard by which to be measured, and provide assurance that vendors will be competing on a fair and equal basis, which should encourage vendors to be responsive and competitive. The specification should indicate the basis on which the bids and offers will be evaluated and the award made. Preparing responses can be costly to vendors, so qualified firms may be unwilling to go through the work and expense of preparing a bid or offer if critical details of the engagement or the criteria used to select the vendor are not clearly communicated during the solicitation process. Specifications should not be too vague or indefinite, so that competing bidders have enough information to formulate intelligent bids or offers. Specifications also should avoid being unduly restrictive, thereby shutting out or stifling open and fair competition among vendors. Through the use of fair specifications, participation in the competitive process may increase, resulting in potential cost savings.

When competitive bidding is required, the award of the contract is made to the lowest priced responsible bidder which has complied with the specifications.

**Awarding Contracts** – When competitive bidding is required, the award of the contract is made to the lowest priced responsible bidder which has complied with the specifications. In assessing whether a bidder is responsible, a local government or school district should consider factors such as a bidder’s capacity and financial ability to complete the contract, accountability, past performance, reliability and integrity. Also, a bidder is entitled to reasonable notice and opportunity to be heard before a determination of non-responsibility is made.<sup>9</sup>

Local governments and school districts may elect to award purchase contracts which exceed the statutory threshold (i.e., \$20,000) to a responsive and responsible offeror on the basis of “best value” (“competitive offering”), instead of to the lowest responsible bidder.<sup>10</sup> For this purpose, the term “purchase contract” includes contracts for service work, but excludes contracts necessary for the completion of a public works contract covered by the prevailing wage provisions of article 8 of the Labor Law, such as for building construction.<sup>11</sup> Towns, villages, cities (except New York City) and counties must first authorize the use of best value for awarding purchase

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<sup>9</sup> The “Iran Disinvestment Act of 2012” provides, among other things, that a “person” identified as engaging in “investment activities in Iran” on a list that has been created by the State Office of General Services may not be deemed a responsible bidder or offerer (General Municipal Law, section 103-g; see, <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>).

<sup>10</sup> General Municipal Law, section 103(1).

<sup>11</sup> Specifically, it excludes public works contracts covered by the prevailing wage provisions of article 8 of the Labor Law.



The best value specification should describe the general manner in which the evaluation and award of offers will be conducted and, as appropriate, identify the relative importance or weighting of price and non-price factors.<sup>16</sup> As noted, the decision to award a contract on the basis of best value must be based on objective and quantifiable analysis, such as a cost-benefit analysis, whenever possible. In evaluating and determining to accept a higher priced offer, the local government or school district generally should use a cost-benefit analysis to show quantifiable value or savings from non-price factors that offset the price differential of the lower price offers. The local government or school district's procurement policies and procedures should require documentation of this analysis.<sup>17</sup>

### Example - Cost-Benefit Analysis

A local government solicits competitive offers to purchase a new pickup truck. Vendor A offers the lowest priced truck at \$40,000. Vendor B offers a more fuel-efficient truck at a price of \$45,000. Both vendors are responsive and responsible offerors. The local government reasonably estimates its average annual fuel costs to be \$4,000 for Vendor A's truck and \$3,000 for Vendor B's truck. The local government also concludes, based on reliable independent studies and assuming current usage of the vehicle, the more fuel efficient truck (Vendor B) will likely have \$250 less in maintenance costs annually than Vendor A (assuming maintenance costs of \$1,000 annually for Vendor A's truck). The local government determines the expected useful life of a new truck to be 10 years and intends to retain the truck for the full useful life. In order to quantify these other critical aspects relating to the new pickup truck purchase, the local government prepares the following cost-benefit analysis:

	Vendor A	Vendor B
<b>Price (Truck)</b>	\$40,000	\$45,000
<b>Fuel Costs over Useful Life (10 Years)</b>	\$40,000	\$30,000
<b>Maintenance Costs over Useful Life (10 Years)</b>	\$10,000	\$7,500
<b>Total Cost</b>	<b>\$90,000</b>	<b>\$82,500</b>

Based on this analysis, it may be possible for the local government to support a determination that the truck from Vendor B provides the "best value" to the local government.

Whether a local government or school district elects to award a purchase contract based on lowest responsible bidder or best value, they are required to comply with public advertising and bid/offer opening requirements that apply to purchase contracts above existing statutory thresholds.<sup>18</sup>

<sup>16</sup> See State Finance Law, section 163(9)(b).

<sup>17</sup> See State Finance Law, section 163(9)(a); General Municipal Law, section 104-b(2)(d), (e).

<sup>18</sup> General Municipal Law, section 103(2).

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## Cooperative Purchasing

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In a cooperative purchasing arrangement, two or more localities work together to procure commodities or services jointly rather than separately. The benefits of cooperative purchasing are potential cost savings attained by lower commodity prices (achieved through economies of scale) and lower joint administrative costs. The basic principle behind cooperative purchasing is that supplies, materials and equipment can often be purchased for substantially less if bought in quantity.

Cities, towns, counties, villages, fire districts, school districts, BOCES and town or county improvement districts in New York State are authorized to enter into cooperative purchasing arrangements among themselves through intergovernmental cooperation agreements.<sup>21</sup> Intergovernmental cooperation may be defined as an arrangement between or among two or more governments for accomplishing common goals, providing a service, or solving a mutual problem. Basically stated, local governments and school districts may generally perform any function or service on a cooperative basis that they may perform individually. Purchasing is an example of where intergovernmental cooperation can be employed.

In a cooperative purchasing arrangement, all laws relating to competitive bidding or competitive offering must be complied with and the cooperative agreement, which must be approved by each board, must be in place prior to the solicitation of bids or offers. Local policies, such as the locality's procurement policy, may also need to be amended to ensure that they are consistent with the cooperative purchasing agreement. Many local governments and school districts purchase similar items, such as electricity, office supplies, vehicle maintenance parts, cafeteria food and beverages, sports equipment, and cleaning supplies, which could be purchased through a cooperative arrangement. Typical cooperative purchasing activities include development of a single set of specifications for common items, preparation of advertisements of bids or offers, administration of the competitive bidding or offering process, and arrangement for purchase deliveries. Cooperative purchasing can provide all participants with the economies of large scale purchasing.

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<sup>21</sup> General Municipal Law, sections 119-n, 119-o.



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The price of certain OGS commodities is directly impacted by volatile market conditions. These commodities include road salt, fuel oil, gasoline, diesel fuel and propane. OGS has created an on-line “filed requirements” database in order to assist users in participating in the next contract cycle for some of these price-sensitive commodities. You must file your information on-line before the required due date. OGS uses the “filed requirements” data to prepare bid documents and solicit competitive bids. The filing of requirements in this database will bind you to the OGS contract as if you had contracted directly with the vendor. Since notices about “filed requirements” are sent to the email addresses your office has previously provided OGS, you are encouraged to keep your Purchaser Notification System information up to date.

In addition to purchases through OGS, local governments and school districts may also make purchases through other departments or agencies of the State, subject to rules promulgated by OGS after consultation with the State Procurement Council.<sup>25</sup>

**Federal Contracts** – Local governments and school districts may purchase from certain federal General Service Administration (GSA) contracts. Under these provisions, local governments and school districts have the option to purchase:

- Information technology and telecommunications hardware, software and professional services through cooperative purchasing;<sup>26</sup>
- Certain equipment suitable for counter-drug, homeland security and emergency response activities through the United States Department of Defense;<sup>27</sup>
- Alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purposes clothing, and related services;<sup>28</sup>
- Certain products and services to be used to facilitate recovery from major disasters declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or to facilitate recovery from terrorism or nuclear, biological, chemical or radiological attack;<sup>29</sup> and

The price of certain OGS commodities is directly impacted by volatile market conditions. These commodities include road salt, fuel oil, gasoline, diesel fuel and propane.

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<sup>25</sup> See Laws of 2012, chapter 55, amending General Municipal Law, section 104. As of January 31, 2013, the regulations had not yet been finalized.

<sup>26</sup> Permissible pursuant to federal GSA supply “Schedule 70”. Should the local government or school district choose to use the contract, they are required to comply with the federal schedule ordering procedures set forth in the federal regulations. General Municipal Law, section 104(2). See also, General Municipal Law, section 103(1-b).

<sup>27</sup> General Municipal Law, section 104(2) authorizing the use by local governments to make purchases pursuant to Section 1122 of the National Defense Authorization Act for Fiscal year 1994.

<sup>28</sup> General Municipal Law, section 104(2) authorizing the use by local governments to make purchases pursuant to the Federal Local Preparedness Acquisition Act (“Schedule 84”).

<sup>29</sup> General Municipal Law, section 104(2) authorizing the use by local governments to make purchases pursuant to Section 833 of the John Warner national defense authorization act for fiscal year 2007.

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## Procurement Policies and Procedures

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Every local government and school district must adopt its own policies and procedures for procurements of goods and services not required by law to be competitively bid. Procurement policies and procedures generally ensure that competition is sought in a reasonable and cost effective manner for procurements below the bidding thresholds and for other contracts exempt from bidding. A procurement policy and procedures applies to:

- Purchase contracts involving expenditures of \$20,000 or less,
- Contracts for public work involving expenditures of \$35,000 or less and
- Professional services and other procurements not required by law to be competitively bid.

The law provides that goods and services not required to be competitively bid must be procured in a manner 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; and, to guard against favoritism, improvidence, extravagance, fraud and corruption.<sup>34</sup>

As there are vast differences in the size and nature of local government and school district operations, and in the dollar value of their procurements, management should carefully consider what procedures are appropriate for their operations, within the requirements of the law.<sup>35</sup> The policy and its procedures should be well thought out and designed specifically to benefit the locality and its taxpayers, and not simply a copy of a sample policy. Procedures should be created after input is solicited and considered from all staff involved in the procurement process.<sup>36</sup>

When a procurement is not subject to bidding requirements, the law generally requires that the procurement policy provide that alternative proposals or quotations be obtained by use of written requests for proposals (RFPs), written quotations, verbal quotations or any other method that furthers the purposes of the law. The procurement policy may set forth circumstances when, or types of procurements for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the local government or school district.

Every local government and school district must adopt its own policies and procedures for procurements of goods and services not required by law to be competitively bid.

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<sup>34</sup> General Municipal Law, section 104-b(1).

<sup>35</sup> General Municipal Law, section 104-b.

<sup>36</sup> General Municipal Law, section 104-b(3) requires that comments concerning the policies and procedures must be solicited from officers of the political subdivision who are involved in the procurement process prior to the enactment of the policies and procedures, and from time to time thereafter.

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## Professional Services

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One of the most prominent exceptions to competitive bidding is professional services. Professional services generally include services rendered by attorneys, engineers, and certain other services requiring specialized or technical skills, expertise or knowledge, the exercise of professional judgment or a high degree of creativity. In addition, insurance coverage (e.g., health, fire, liability, and workers' compensation) is also not subject to competitive bidding requirements.

Professional services can involve significant dollar expenditures, and localities generally must include in their procurement policies and procedures a proposal or quotation process to ensure that these procurements are made on the most favorable terms and conditions. Seeking competition for professional services and insurance coverage may be an opportunity to generate cost savings for your locality. Your policy should describe the methods and procedures for promoting competition in the procurement of professional services.

One way to promote competition in professional services is to issue requests for proposals (RFPs). Using an RFP is a common method of seeking competition for professional services, where price should not necessarily be the sole criterion for award of the contract. An RFP generally is a document that provides detailed information concerning the type of service to be provided including minimum requirements and, where applicable, the evaluation criteria that will govern the contract award. Potential service providers typically are supplied with copies of the RFP and are requested to submit proposals by a specified date. Proposals can be solicited via public advertisement, or a comprehensive list of potential vendors can be compiled with vendors contacted directly and provided with the RFP. An RFP can provide a mechanism for fostering increased competition for professional services and can ensure that these contracts are awarded in the best interests of the taxpayers.

Professional services can involve significant dollar expenditures, and localities generally must include in their procurement policies and procedures a proposal or quotation process to ensure that these procurements are made on the most favorable terms and conditions.



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## Preferred Sources

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New York State has enacted legislation to advance “special social and economic goals,” which accords certain providers with “preferred source” status.<sup>42</sup> Procurements of commodities and/or services, when available in the “form, function and utility” required by the political subdivision, are required to be made from preferred sources and are not subject to competitive procurement requirements. Preferred sources include: Correctional Industries Program of the Department of Corrections and Community Supervisions (Corcraft); approved qualified, nonprofit agencies for the blind; approved special employment programs for mentally ill persons; approved qualified charitable nonprofit agencies for other severely disabled persons; and certain approved qualified veterans’ workshops. The law establishes the priority to be accorded to the various preferred sources.<sup>43</sup>

Those who are not familiar with the commodities and services of preferred sources are often surprised to learn of the broad range of offerings and their quality and competitive pricing. Commodity offerings include office and classroom furniture such as desks, chairs, tables, and lockers; flags, cleaning products, and janitorial supplies; packaged foods and beverages; office and school supplies; and safety supplies and equipment such as fire extinguishers and signage. Services include document processing, mail services, messenger and phone answering services; food services; maintenance and janitorial services; garbage pickup and recycling, and electronics recycling. Preferred sources provide direct sales to local governments and school districts.

An assessment of preferred vendor availability should be made before a commodity or service is considered for competitive bidding or alternative procurement procedures. The Office of General Services (OGS) regularly updates comprehensive information about preferred sources, and it also provides an official “List of Preferred Source Offerings.” This information can be obtained from the OGS website ([www.ogs.ny.gov](http://www.ogs.ny.gov)) or by inquiry. Some preferred sources also have websites and can be contacted directly for information about their commodities and services.

An assessment of preferred vendor availability should be made before a commodity or service is considered for competitive bidding or alternative procurement procedures.

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<sup>42</sup> State Finance Law section 162(1), (2); Correction Law section 184.

<sup>43</sup> State Finance Law section 162(4).

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Besides opportunities for purchasing green, local governments and school districts are also exploring other options that help protect our environment. The Office of the State Comptroller released an audit report<sup>48</sup> in 2011 that discusses the cost effectiveness of purchasing liquid propane (LP), which the Environmental Protection Agency approved as an alternative clean fuel, for use in school buses rather than diesel fuel. The audit found that LP-powered buses cost more than the diesel alternative. However, New York State currently provides NYSERDA grant funds to bridge the difference in cost. The audit also found that LP fuel costs – with help from a federal tax credit—are lower, and that maintenance of LP buses is less expensive. However, paying for LP infrastructure (fueling stations) could add to a district’s start-up costs for using LP buses. If government tax credits for LP-powered buses continue to be available, and if surcharges on diesel-powered buses continue to increase, LP-powered buses can be a lower-cost alternative to diesel-powered buses. LP fuel is also safer to use and store than diesel fuel.

Each local government and school district needs to assess its own purchasing needs and objectives in relationship to green purchases. In some instances, environmentally responsible purchasing may be prohibitively costly or only produce limited benefits or efficiencies. Providing options for recycled and energy-efficient green products can often, and in some cases must, be part of seeking competition and the procurement process.

Besides opportunities for purchasing green, local governments and school districts are also exploring other options that help protect our environment.

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<sup>48</sup> [www.osc.state.ny.us/localgov/audits/swr/2011/schoolbuses/global.pdf](http://www.osc.state.ny.us/localgov/audits/swr/2011/schoolbuses/global.pdf).

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**Gifts** - Governing boards should consider providing guidance in their codes of ethics on the acceptance of gifts by local government and school district officers and employees. The law prohibits any officer or employee from directly or indirectly soliciting any gift.<sup>51</sup> It also prohibits any officer or employee from accepting or receiving any gift having a value of \$75 or more, in any form, under circumstances in which it can reasonably be inferred that the gift was intended to influence the officer or employee, or could reasonably be expected to influence the officer or employee, in the performance of his or her official duties, or was intended as a reward for any official action on his or her part.<sup>52</sup> It is a common practice for vendors in the private sector to offer tickets to sporting and other entertainment events, lunches at exclusive locations, clothing with company logos, and a variety of other perks. Municipal officers and employees with purchasing or financial responsibilities are sometimes offered such gifts. Your locality's code of ethics could supplement the prohibitions contained in the law, including addressing gifts to close relatives of officers and employees.<sup>53</sup>

**Conflicts of Interest** - Besides including guidance on the acceptance of gifts in your code of ethics, local governments and school districts also need to have a system in place for ensuring that potential conflicts of interest are identified, prohibited interests are avoided and any disclosure requirements are followed. The law limits the ability of municipal officers and employees to enter into contracts in which their personal financial interests and their public powers and duties conflict.<sup>54</sup>

Governing boards should consider providing guidance in their codes of ethics on the acceptance of gifts by local government and school district officers and employees.

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<sup>51</sup> General Municipal Law section 805-a(1)(a).

<sup>52</sup> Ibid.

<sup>53</sup> The State Comptroller's Office model codes of ethics, cited above, contain sections relating to gifts (see Model Code of Ethics for Local Governments, section 17; Model Code of Ethics for Fire Districts, section 12).

<sup>54</sup> General Municipal Law, article 18.



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## Conclusion

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Seeking competition in the purchasing cycle isn't just a matter of ensuring compliance with laws and local policy. The people who are directly responsible for making procurement decisions should help to create a cost-conscious and thrifty procurement environment, in which seeking competition becomes intuitive and "second nature" for the organization. The benefits of seeking competition, including the potential for cost savings, should motivate a culture of competition within your procurement function. Seeking competition can be enhanced when a community of best practices, within legal parameters, is developed by each local government or school district. Participation in professional procurement groups can also assist in developing a cost-conscious atmosphere within your locality. Communication within your organization about procurement goals, laws, and local policy is also essential to enhancing your organization's expertise and commitment to seeking competition. Management can play a key role in bringing together the various factors needed to create an organizational of seeking competition.

The Office of the State Comptroller would be pleased to assist you with any questions you have regarding the information contained in this guide, or any special circumstances with which you may need assistance. The addresses and telephone numbers for each of our regional offices, and our legal staff, are located at the end of this publication. Please contact the regional office for your locality or, for legal issues, our legal staff, with any questions you may have.

The benefits of seeking competition, including the potential for cost savings, should motivate a culture of competition within your procurement function.

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## Appendix A—Categories of Procurement

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- <sup>57</sup> See “Monetary Thresholds” section above for discussion of making the determination of whether the monetary thresholds will be exceeded.
- <sup>58</sup> General Municipal Law, section 104-b(2)(g) provides that the procurement policy may set forth circumstances when, or types of procurements for which the solicitation of alternative proposals or quotations will not be in the best interest of the local government or school district.
- (a) As noted, a local government or school district may authorize the use of “best value” as a basis for the award of “purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to article eight of the labor law),” as an alternative to awarding to the “lowest responsible bidder.”
- (b) General Municipal Law, section 101 (the “Wicks Law”) provides additional monetary thresholds with respect to contracts for the erection, construction, reconstruction or alteration of buildings.
- (c) Although General Municipal Law, section 104-b exempts these procurements from the requirement of written or verbal quotations or proposals, each political subdivision should include in their policies and procedures a provision to ensure that use of the exception is documented and, in the case of State, county or other government contracts, that procurements from these sources are in the best interest of the unit. In the case of procurements through certain federal GSA contracts or a county contract, the law expressly requires that the local government consider whether use of the county contract “will result in cost savings after all factors, including charges for service, material and delivery, have been considered.” (see General Municipal Law, sections 103[3], 104[2]). This could be accomplished by comparisons of prices to catalogs or other market price comparisons.
- (d) School districts only, Education Law, section 1725.
- (e) School districts only.

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## **Appendix B—Sample Format for Procurement Policy and Procedures**

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### **Methods of Competition to be Used for Non-Bid Procurements**

The methods of procurement to be used are as follows:

*(Insert circumstances when each specific method of procurement will be utilized and procedures appropriate for the size and complexity of your locality; take into account which method will best further the purposes of General Municipal Law, section 104-b and the cost-effectiveness of the method. If the local government or school district has adopted a local law, rule, regulation or resolution, as the case may be, to authorize “best value” as a basis for awarding a purchase contract or contracts, “best value” should be indicated here.)*

### **Adequate Documentation**

Documentation of actions taken in connection with each such method of procurement is required as follows:

*(Insert specific documentation requirements)*

### **Awards to Other than the Lowest Responsible Dollar Offeror**

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

*(Insert specific documentation requirements, including for “best value” awards, when authorized)*

### **Items Excepted from this Policy and Procedures by the Board**

The board sets forth the following circumstances when, or types of procurements for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of *(Insert name of political subdivision or district)*.

*(Insert list of circumstances or types of procurements for which the board has determined that the solicitation of alternate proposals or quotations are not in the best interest of the taxpayers. The number of such circumstances and/or types of procurements should be limited and only where adequately justified. “Piggybacking” on certain other government contracts in accordance with the prerequisites in GML, section 103 [16] would be listed here. )*

### **Individual(s) Responsible for Purchasing**

*(Insert names and titles of the individual or individuals responsible for purchasing and their respective titles; information to be updated biennially).*



**Division of Local Government and School Accountability**

**Central Office**

**Directory**

**Andrew A. SanFilippo**, Executive Deputy Comptroller

(Area code for the following is 518 unless otherwise specified)

**Executive** .....474-4037  
Gabriel F. Deyo, Deputy Comptroller  
Tracey Hitchen Boyd, Assistant Comptroller

**Audits, Local Government Services and Professional Standards**..... 474-5404  
(Audits, Technical Assistance, Accounting and Audit Standards)

**Local Government and School Accountability Help Line** .....(866) 321-8503 or 408-4934  
(Electronic Filing, Financial Reporting, Justice Courts, Training)

**New York State & Local Retirement System**

**Retirement Information Services**

Inquiries on Employee Benefits and Programs ..... 474-7736

**Bureau of Member and Employer Services** .....(866) 805-0990 or 474-1101

Monthly Reporting Inquiries ..... 474-1080

Audits and Plan Changes.....474-0167

All Other Employer Inquiries .....474-6535

**Division of Legal Services**

**Municipal Law Section** .....474-5586

**Other OSC Offices**

**Bureau of State Expenditures** .....486-3017

**Bureau of State Contracts** ..... 474-4622

<b>Mailing Address for all of the above:</b>	<b>Office of the New York State Comptroller, 110 State Street, Albany, NY 12236 email: <a href="mailto:localgov@osc.state.ny.us">localgov@osc.state.ny.us</a></b>
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