

**TOWN OF ONLEY, VIRGINIA
PROCUREMENT ORDINANCE**

Ordinance No. 001-07

April 9, 2007

WHEREAS, the Town Council of the Town of Onley desires to:

(1) Establish an ongoing centralized purchasing function capable of providing daily service and support on an organization-wide basis.

(2) Introduce a greater measure of responsibility and accountability over implementation of the annual budget, specifically as related to the procurement of contractual services, materials, supplies, and capital outlay items.

(3) Ensure realization of the principles of competitive purchasing and best buy at the least cost.

(4) Assist management at all levels in reaching responsible, cost-effective decisions in the procurement of quality supplies and services for town use.

(5) Formulate policies and procedures designed to systematize and enhance the efficiency of the town's procurement process and ensure procurement in a timely and proper manner.

(6) Promote good will and clear communication in town-vendor relations and intra organization relations relative to purchasing.

(7) Promote the realization of equal opportunity policies through procurement relations with vendors.

BE IT THEREFORE ORDAINED, by the Town Council of the Town of Onley that the following provisions be enacted regulating the procurement of goods and services for the Town of Onley.

I. In General

Sec. 1-1. Authority.

This division is enacted pursuant to the authority granted in Code of Virginia, § 2.2-4300 et seq.

Sec. 1-2. Definitions.

The following words, terms, phrases, and abbreviations, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

IFB means invitation for bids.

PO means purchase order.

PR means purchase requisition.

Purchasing agent means the mayor, council person, or his designee who is authorized and responsible for the procurement of supplies and services for town use.

RFQ means request for quotations.

Vendor means any person who or company that sells supplies or services.

Sec. 1-3. Objectives.

The objectives of this division shall be to:

(1) Establish an ongoing centralized purchasing function capable of providing daily service and support on an organization-wide basis.

(2) Introduce a greater measure of responsibility and accountability over implementation of the annual budget, specifically as related to the procurement of contractual services, materials, supplies, and capital outlay items.

(3) Ensure realization of the principles of competitive purchasing and best buy at the least cost.

(4) Assist management at all levels in reaching responsible, cost-effective decisions in the procurement of quality supplies and services for town use.

(5) Formulate policies and procedures designed to systematize and enhance the efficiency of the town's procurement process and ensure procurement in a timely and proper manner.

(6) Promote good will and clear communication in town-vendor relations and intra organization relations relative to purchasing.

(7) Promote the realization of equal opportunity policies through procurement relations with vendors.

Sec. 1-4. Implementation.

The town council shall develop a purchasing procedure based on the policies and procedures established in this division and shall promulgate such administrative regulations necessary for the implementation of the standards established by this division.

Sec. 1-5. Sources of supply.

The purchasing agent shall select sources of supply in connection with the appropriate town department. As a general policy, purchases shall be awarded, with local vendor preference, on the basis of availability, best price, delivery and quality, taking into consideration the reputation and performance capability of the suppliers.

Sec. 1-6. Commitments.

In connection with town departments, the purchasing agent shall conduct and conclude all negotiations affecting vendor selection, price, terms, delivery, etc. No one other than the purchasing agent shall commit the town to any purchase, vendor, or product. Exceptions to this include emergencies and purchases made from the petty cash fund.

Sec. 1-7. Interdepartment relations.

It shall be the policy of the town to promote an intelligent and harmonious relationship between the purchasing agent and other town departments relative to procurement.

Sec. 1-8. Vendor relations.

The purchasing agent will develop and promote a program of fairness with all vendors and salespersons.

Sec. 1-9. Expediting.

Expediting or "followup" on the delivery of materials or orders will be accomplished by the purchasing agent. Any information other town departments may acquire or be requested to acquire concerning the delivery status of ordered material should be passed on to the purchasing agent.

Sec. 1-10. Tax exemption.

The town is exempt from all state and federal sales and excise taxes.

Sec. 1-11. Compliance with federal grants.

The town may comply with mandatory federal requirements in grants or contracts not in conformance with this division only upon a written determination of the town council that acceptance of the applicable provisions is in the public's interest.

Sec. 1-12. Vendor selection.

Vendors will be selected on a competitive basis. Bids, quotations, and proposals will be solicited by newspaper advertisement, by direct mail request to prospective suppliers, and/or by telephone. Purchase orders or contracts will be awarded to the lowest and best responsible vendor. All bids, etc., may be rejected if it is in the public's interest to do so. In determining the lowest and best responsible vendor, in addition to price, the following will be considered:

- (1) The character, integrity, reputation, judgment, experience, and efficiency of the vendor.
- (2) The ability, capacity, and skill of the vendor to perform the contract, fill the order, or provide the service.
- (3) The ability of the vendor to provide material or service promptly or within the time specified, without delay or interference.
- (4) The quality of performance by the vendor on previous contracts, orders, or services.
- (5) The ability of the vendor to provide future maintenance and service for all equipment purchased from the vendor.

Sec. 1-13. Request for quotations.

- (a) Purchases of supplies, equipment, and services of \$1,000.00 or more will require a request for quotations (RFQ).
- (b) The following procedures will be followed in obtaining a request for quotations:
 - (1) Complete a request for quotations and distribute copies to vendors.
 - (2) File unopened sealed quotations received, together with a machine copy of the original request for quotations.
 - (3) On the designated date, remove the quotes received from the file.
 - (4) Open the quotes and determine which vendor offers the item at the lowest price and issue a purchase order to the successful vendor.
- (c) All such purchases shall require town council approval.

Sec. 1-14. Open market purchases.

Purchases of less than \$500.00 will be made in the open market without necessary resort to a RFQ. Every effort will be made, however, to get the lowest and best price and to share the business among responsible vendors. Such purchases shall be a budgeted item and shall be authorized by the Mayor or the purchasing agent.

Purchases of more than \$500.00 but less than \$1,000.00 may be made in the open market without necessary resort to a RFQ. Every effort will be made, however, to get the lowest and best price and to share the business among responsible vendors. Such purchases shall be a budgeted item and shall be authorized by the Mayor and three (3) members of town council.

Sec. 1-15. Emergency purchases.

Emergency purchases shall be exempt from this division, provided that an emergency exists which affects the public health, safety, or welfare. The mayor shall certify that an emergency exists.

Sec. 1-16. Competitive bidding on state-aid projects.

No contract for the construction of any building or for an addition to or improvement of an existing building by the town or any subdivision of the town for which state funds of not more than \$30,000.00 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation. The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this division.

Sec. 1-17. Withdrawal of bid due to error.

(a) A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn. One of the following procedures for withdrawal of a bid shall be selected by the town and stated in the advertisement for bids: (i) the bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice; or (ii) the bidder shall submit to the town or designated official his original work papers, documents, and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for the opening of bids. In either instance, such work papers, documents, and materials may be considered as trade secrets or proprietary information subject to the condition of Code of Virginia, § 11-52(D). The bids shall be opened one day following the time fixed by the town for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined in this subsection and withdraw his bid. The contract shall not be awarded by the town until the two-hour period has elapsed. Such mistake shall be proved only from the original work papers, documents and materials delivered as required in this subsection.

(b) The town may establish procedures for the withdrawal of bids for other than construction contracts.

(c) No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

(d) If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

(e) No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

(f) If the town denies the withdrawal of a bid under this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

Sec. 1-18. Bid deposits.

Bid deposits or surety may be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of that deposit or surety. A successful bidder, upon failure on his part to enter into a contract within the time specified after written notification of the bid award, shall forfeit, as liquidated damages, any surety deposited with the town.

Sec. 1-19. Bid bonds.

(a) Except in cases of emergency, all bids or proposals for construction contracts in excess of \$100,000.00 shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in the commonwealth, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

(b) No forfeiture under a bid bond shall exceed the lesser of the following:

(1) The difference between the bid for which the bond was written and the next low bid; or

(2) The face amount of the bid bond.

(c) Nothing in this section shall preclude the town from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$100,000.00.

Sec. 1-20. Alternative forms of security.

(a) In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

(b) If approved by the town, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment, or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the town equivalent to a corporate surety's bond.

Sec. 1-21. Use of brand names.

Unless otherwise provided in the invitation for bids, the name of a certain brand, make, or manufacturer does not restrict bidders to the specific brand, make, or manufacturer named—it conveys the general style, type, character, and quality of the article desired—and any article which the town in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

Sec. 1-22. Award of bid-based contracts.

The town council will award bid-based contracts on the recommendation of the appointed reviewing committee, which is to be created in each case, and the town manager. The award will usually be to the lowest and best responsible bidder. A full and complete statement of the reasons shall be prepared by the committee and town manager and shall be filed along with other papers relating to the transaction.

Sec. 1-23. Performance and payment bonds.

(a) Upon the award of any public construction contract exceeding \$100,000.00 awarded to any prime contractor, such contractor shall furnish to the town the following bonds:

(1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.

(2) A payment bond in the sum of the contract amount. Such bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded or to any subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the work. The term "labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

(b) Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in the Commonwealth.

(c) Such bonds shall be payable to the town.

(d) Each of the bonds shall be filed with the town or a designated office or official thereof.

(e) Nothing in this section shall preclude the town from requiring payment or performance bonds for construction contracts below \$100,000.00.

(f) Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

Sec. 1-24. Employment discrimination by contractor prohibited.

The town shall include in every contract of over \$10,000.00 the following:

(1) During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

(2) The contractor will include the provisions of subsections (1)a, (1)b and (1)c of this section in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

Sec. 1-25. Retainage on construction contracts.

(a) In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with not more than five percent being retained to ensure faithful performance of the contract. All amounts withheld may be included in the final payment.

(b) Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.

II. Purchase Orders

Sec. 2-1. When required; contents; procedures for approval.

(a) Purchase orders are required for all purchases over \$25.00.

(b) The purchase order shall include the following:

- (1) Items required;
- (2) Quantity required;
- (3) Price of each item;
- (4) Date required;
- (5) Tax exempt number; and
- (6) Classification of expense; budget line item account number shall be shown for each line if the items are not all the same on one purchase order.

(c) Authorization levels for purchase order approval shall be as follows:

- (1) A purchase order of \$0.00 to \$499.00 may be approved by the Mayor and department heads.
- (2) A purchase order of \$500.00 to \$2,500.00 may be approved by the Mayor and three (3) members of council.
- (3) A purchase order of \$2,500.00 and over shall require prior approval by the town council.

Sec. 2-2. Notice to vendors; tax exempt number.

All regular vendors shall be notified that an approved purchase order is required before giving credit for any item or purchase over \$25.00. The tax exempt number shall also be sent to each vendor where regular charge accounts are maintained. The tax exempt number is also printed on the purchase order, to ensure that no tax is charged to the town.

Sec. 2-3. Purchasing procedures.

As each purchase is made, the following must be accomplished:

- (1) The purchase order shall be prepared if the purchase is going to be over \$25.00,

(2) When the purchase is made, whether over or under \$25.00, the invoice must be approved.

(3) After the purchase is made, the invoice must be turned in for payment.

Sec. 2-4. Payment approval procedures.

(a) Responsibilities of office staff. In the approval of payment for purchase orders, the office staff will be responsible for the following:

(1) Matching the purchase order to the appropriate invoice if the item/purchase is over \$25.00, posting invoices to accounts payable on a daily basis and ensuring that invoices are scheduled for payment prior to the due date or earlier in order to obtain prompt payment discounts.

(2) Checking the actual purchases on the invoice to the items authorized for purchase on the purchase order, to ascertain that only authorized items were received for all purchases over \$25.00.

(3) Mathematical verification of each invoice before approval by the town manager or other official designated by the Town Council for all invoices whether over or under \$25.00.

(4) No sales tax appears on the invoice.

(b) Responsibilities of approving official: The approving official shall verify that the following items of control have been accomplished before approving invoices for payment:

(1) The attached purchase order was appropriately authorized.

(2) The office staff member has verified items, quantities, and mathematical calculations on the invoices to the appropriate purchase order and the purchase order is in fact attached to the invoice

Secs. 2-5—2-20. Reserved.

III. Competitive Negotiation

Sec. 3-1. Procedures generally.

(a) Upon a determination made in advance by the town and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services, or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination.

(b) Upon a written determination made in advance by the town council that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in the definition of "competitive negotiation" in Code of Virginia. The basis for this determination shall be documented in writing.

(c) Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the town and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

(1) For the alteration, repair, renovation or demolition of buildings when the contract is not expected to cost more than \$500,000.00;

(2) For the construction of highways and any draining, dredging, excavating, grading, or similar work upon real property; or

(3) As otherwise provided in Code of Virginia.

Sec. 3-3. Award of a service generally.

The town council or its designee shall engage in individual discussions with all offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project. These discussions may encompass nonbinding estimates of total projects costs, including where appropriate design, construction and life cycle costs. Methods to be utilized in arriving at price for services may also be discussed. At the conclusion of discussion on the basis of evaluation factors published in the request for proposals and all information developed to this point, the town manager shall select in the order of preference two or more offerors whose professional qualification and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

Sec. 3-4. Procurement of professional services.

Where the cost of a professional service is expected to exceed \$30,000.00 in the aggregate or for the sum of all phases of a contract or project, the town shall engage in individual discussions with two or more offerors deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or

staff expertise pertinent to the proposed project, as well as alternative concepts. The request for proposal shall not, however, request that offerors furnish estimates of man hours or cost for services. At the discussion stage, the town may discuss nonbinding estimates of total project costs, including but not limited to life-cycle costing, and, where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this section, on the basis of evaluation factors published in the request for proposal and all information developed in the selection process to this point, the town shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the town can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the town determine in writing and in its sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

Secs. 3-5—3-15. Reserved.

IV: Ethics in Public Contracting

Sec. 4-1. Purpose.

The sections of this subdivision supplement, but do not supersede, other provisions of law, including but not limited to the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.2-3100 et seq.) and the Virginia Governmental Frauds Act (Code of Virginia, § 18.2-498.1 et seq.). The sections of this subdivision apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

Sec. 4-2. Definitions.

The words defined in this section shall have the meanings set forth throughout this subdivision.

Immediate family means a spouse, children, parents, brothers, sisters, and any other person living in the same household as the employee.

Official responsibility means administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove, or otherwise affect a procurement transaction, or any claim resulting therefrom.

Pecuniary interest arising from the procurement means a personal interest in a contract as defined in the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.2-3100 et seq.).

Procurement transaction means all functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Public employee means any person employed by the town, including elected officials or appointed members of the town council.

Sec. 4-3. Penalty for violation.

Willful violation of any section of this subdivision shall constitute a misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his employment.

Sec. 4-4. Proscribed participation by public employees in procurement transactions.

(a) Except as may be specifically allowed under the Code of Virginia, no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the town when the employee knows that:

(1) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or

(2) The employee, the employee's partner, or any member of the employee's immediate family:

a. Holds a position with a bidder, offeror, or contractor, such as an officer, director, trustee, partner, or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;

b. Has a pecuniary interest arising from the procurement transaction; or

c. Is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

(b) This section prohibits officers and employees who have dealt in a procurement capacity with a particular firm from accepting employment with that firm for a period of one year from cessation of the public employment, unless the officer or employee provides written notification to the town council prior to the start of employment with such private firm.

Sec. 4-5. Solicitation or acceptance of gifts.

(a) No public employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor, or subcontractor any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The town may recover the value of anything conveyed in violation of this section.

(b) Accordingly, the town may terminate, at no charge to the town, any purchase order or contract if it is found that substantial gifts or gratuities were offered to a town employee. The town may also take disciplinary action, including dismissal, against a town employee who solicits or accepts gifts or gratuities of any value whatsoever.

Sec. 4-6. Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror, or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the town unless the employee or former employee provides written notification to the town or a public official if designated by the town or both prior to commencement of employment by that bidder, offeror or contractor.

Sec. 4-7. Gifts by bidders, offerors, contractors, or subcontractors.

No bidder, offeror, contractor, or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

Sec. 4-8. Kickbacks.

(a) No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services, or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.

(b) No subcontractor or supplier shall make or offer to make kickbacks as described in this section.

(c) No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services, or anything of value in return for an agreement not to compete on a public contract.

(d) If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the town and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

Sec. 4-9. Participation in bid preparation; submitting bid for same procurement.

No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of a town shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the town may permit such person to submit a bid or proposal for that procurement or any portion thereof if the town determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the town.

Sec. 4-10. Certification of compliance; false statements.

(a) The town may require public employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with this subdivision.

(b) Any public employee required to submit a certification as provided in subsection (a) of this section who knowingly makes a false statement in such certification shall be punished as provided in section 4-3.

Sec. 4-11. Misrepresentations.

No public employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious, or fraudulent statements or representations; or make or use any false writing or document knowing it to contain any false, fictitious, or fraudulent statement or entry.

Secs. 4-12—4-13. Reserved

John Willis Kellam
John Willis Kellam, Mayor

Attest:

Elizabeth Bell, Town Clerk

I certify that the foregoing is a true copy of an ordinance adopted on 9th day of April, 2007 by the Onley Town Council.

Elizabeth Bell, Town Clerk

Council voting:

Zember _____
Pierson _____
Lowe _____
Thornes _____
Hurst _____
Ferguson _____

The minutes of April 9, 2007 reflect that this ordinance was adopted. Councilmembers Zember, Pierson, Lowe, Thornes and Ferguson were all in favor. Councilmember Hurst was absent.

Janet Salazar
7/27/11

TOWN OF ONLEY, VIRGINIA
Procurement
Quick Reference Chart
April 9, 2007

ESTIMATED COST	GENERAL PROCEDURE
\$500.00 or less	Items must be in the current year's budget. This is the spending ceiling for the Mayor or a department head.
\$501.00 - \$1,000	Items must be in the current year's budget. Purchase order must be issued and (3) quotes solicited. Mayor and (3) members of Town Council must approve in advance of purchase.
over \$1,000.00	Item may or may not be in current year's budget. Purchase order must be issued and (3) quotes solicited. Mayor and Council approval required to issue P.O., accept the quote, and make expenditure.

EXCEPTIONS	
Emergency Purchases	Health or safety of the public or operation of equipment is in jeopardy. Competition is not required.
Sole Source	Written justification is required. Approval of the Town Council is required.
State Contracts	No competition is required on items purchased from a state contract. The contract number must be noted on the purchase order.