

## **PROCUREMENT POLICY VILLAGE OF SOUTHAMPTON**

**General.** – This Policy sets forth the policy and procedures to meet the requirement of General Municipal Law Section 104-b which requires each political subdivision to adopt a procurement policy. The objective of the Village procurement policy is to obtain services or to buy materials, supplies, and equipment of the right quality, in the right amounts, from the right source, at the right price, and in compliance with all legal requirements. Other considerations such as the desire to use local vendors and to spread procurement among vendors must always be secondary to this objective. Department heads have basic responsibility for achieving this objective using written requests for proposals, written or oral quotations, periodic comparison shopping, and other methods.

**Competitive bidding required.** –Under NYS General Municipal Law Section 103, competitive bidding must be used for purchase contracts in excess of \$20,000 or public works contracts in excess of \$35,000. Exceptions to competitive bidding are authorized for the following procurement:

- those under state, county or other municipal contracts
- surplus or second-hand purchases from another government entity
- those from correctional institutions or from agencies for the blind or severely handicapped
- those under a duly declared emergency

Competitive bidding is also required when the aggregate amount to be spent on an item or class of items of supply or service in the fiscal year can reasonably be expected to exceed the dollar limits mentioned above. Department heads will consult with the Village Administrator at the beginning of each fiscal year to review planned spending and past purchases to determine whether competitive bidding is required under this provision.

When competitive bidding is required, Department heads will prepare specifications in a timely fashion to permit review by the Village Administrator and by the Board of Trustees prior to advertising for bids.

Specifications should be prepared to encourage the widest possible competition. Specifications designed to favor one vendor or product are not permissible (unless the Board has authorized standardization).

General Municipal Law § 103 or any other general, special or local law, the following statement must accompany such bid:

- i. **The Iran Divestment Act.** Every written offer made to the [municipality] must contain the following statement subscribed and affirmed by the

offeror as true under the penalties of perjury:

By submission of this offer, each offeror and each person signing on behalf of any offeror certifies, and in the case of a joint offer each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each offeror is not on the list created pursuant to State Finance Law § 165-a (3)(b).

The [municipality] may award an offer to an offeror who cannot make the statement of non-investment on a case-by-case basis if:

- The investment activities in Iran were made before the effective date of this section, the investment activities in Iran have not been expanded or renewed after the effective date of this section, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or
- The [municipality] makes a determination that the goods or services are necessary for the [municipality] to perform its functions and that, absent such an exemption, the [municipality] would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

No contract may be awarded to any persons determined to be engaged in investment activities in Iran as indicated by New York State Office of General Services.

ii. **Statement of Non-Collusion.** Every written offer made to the [municipality] must contain the following statement subscribed and affirmed by the offeror as true under the penalties of perjury:

By submission of this offer, each offeror and each person signing on behalf of any offeror certifies, and in the case of joint offer each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:

- The prices in this offer have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor.
- Unless otherwise required by law, the prices quoted in this offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening, directly or indirectly, to any other offeror or to any competitor; and
- No attempt has been made or will be made by the offeror to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

**Use of State, County or other Municipal Contracts.** —The use of state, county, or other municipal contracts for procurement of goods and services (aka Piggybacking) is encouraged. Department Heads will submit copies of “piggyback” contracts with request for Purchase Orders.

**Procurement Not Covered by Competitive Bidding Requirement** The following procedures will govern such procurement, with the Purchase Order (PO) serving as the basic control document.

--Department heads are responsible for establishing purchasing controls within their departments, subject to approval by the Village Administrator.

**Purchases subject to Under \$1000**, no purchase order necessary, departmental controls. Voucher required for payment.

**Purchases between \$1000 and \$2,999:** Purchase order necessary. Department Head must obtain approval, from the Superintendent of Public Works, where appropriate, and the Village Administrator prior to buying or ordering.

**Purchases between \$3,000 and \$9,999:** Purchase order must be approved by the Trustee Liaison, or the Superintendent of Public Works, where appropriate, and the Village Administrator prior to buying or ordering. Before submitting PO to supervising Trustee, Department head must obtain two or more estimates or quotes. These estimates may be verbal, digital or in writing, but Department Head must be able to document these estimates or quotes with details showing as a minimum the vendor, the amount of the quote, the date obtained, and how obtained. This documentation must be submitted with the request for Purchase Order.

**Capital and Special Trust Purchases (any amount):** Purchase order necessary. Department Head must obtain approval from the Superintendent of Public Works, where appropriate, and the Village Administrator and Trustee Liaison prior to buying or ordering

**Purchases between \$10,000 and \$19,999.:** Purchase order must be approved by the Trustee Liaison, or the Superintendent of Public Works, where appropriate, and the Village Administrator prior to buying or ordering. Three or more quotes or estimates must be obtained in writing and must be submitted to Village Administrator with PO. Copies of these quotes and the PO will be attached to invoice/voucher at time of payment.

**Purchase order exceptions.** --Purchase orders will not be required for the following types of procurement:

1. procurement of services or items awarded by the Board pursuant to formal competitive bidding procedures
2. utility bills and postage meter costs
3. employee travel expenses approved by Board of Trustees
4. insurance claims

**Annual Purchase Orders** - -Annual POs will be prepared for recurring purchases or contracts, e.g., electronic maintenance, monthly office supplies, hardware, and automotive supplies, etc. The Village Administrator will consult with Department heads on preparation of annual Purchase Orders.

**Low Bidder** -- Procurement will be from the lowest qualified bidder, whether that bid emerges from formal competitive bids or from less formal quotes or estimates. Requests for exceptions to this policy will be directed in writing with full justification to the Board of Trustees.

Items Exempted From this Policy and Procedure by the Board:

**Professional and Technical Services** --The Board of Trustees may authorize the retention of individuals or firms to provide professional or technical services without competitive bidding when it determines this to be in the best interests of the Village. In reaching such a decision, the Board will consider such factors as (a) whether the services are subject to state licensing or testing requirements, (b) whether substantial formal education or training is prerequisite to the services to be provided, and (c) whether the services require a personal relationship between the individual and the Board. The Board will authorize this exception by resolution.

**Requests for Proposal:** - When appropriate, Requests for Proposals may be sought for professional services, by the Village Administrator or Village Clerk. If the need for an RFP Review Committee arises, the committee will be comprised of persons possessing knowledge of the services to be provided, and/or members of the Village Budget and Finance Committee. No elected official in the Village shall serve on a selection committee for the procurement of goods or services.

-The Village has many qualified individuals who live in the Village and/or who serve as volunteers on various committees and boards. These individuals have expertise and can serve on selection panels for a wide range of procurements. This will ensure the avoidance of any conflict from Board members who may have friends, relatives, or other associates who want to do business with the Village. The new selection panels would make recommendations to the Board of Trustees for the award of contracts for goods and services, and the Trustees would consider these recommendations to award procurements to vendors.

When appropriate, the Village shall require a statement of revenues and expenses signed by the contractor, with respect to business dealings with the Village.

-This is especially true with contracts that provide the Village with revenue. Requiring such statements will provide transparency to the Trustees and the Village citizenry

As a part of its negotiating strategy with vendors, and to obtain the best value in its procurements, the Village, when appropriate, should use a “best and final offer” strategy with its list of vendor finalists in its procurement processes.

-Best and final offers are standard and useful negotiating strategies for local, state, and federal procurements and should be standardized as a procedure for the Village

**Sole Source.** Under State Finance Law § 163, “sole source” is defined as “a procurement in which only one offeror is capable of supplying the required commodities or services,” and no substantial equivalent exists. To qualify under the sole source exception, the [municipality] must demonstrate that the acquisition of the good or service sought is in the public interest and is available from only one source, for which there is no equivalent. A good or service serves the public interest if there are unique benefits arising from the particular good or service as compared to a different good or service, no other good or service would provide substantially similar benefits, and the cost is reasonable when considering the benefit conferred upon the municipality

**Emergency purchases.** For purpose of this section, an emergency refers to an occurrence that presents an immediate threat to public property, the life, safety, health, welfare or property of residents or the public, or threatens to curtail or terminate an essential service to residents or the public. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety, property or welfare of the residents or [municipality]. This section does not preclude alternate proposals if time permits. Emergency purchases will be made at the discretion of the appropriate department head with documentation as to the nature of the emergency

**Conforming Purchase Orders:** As stated in the current Village procurement policy, Purchase Orders issued to vendors are required prior to the procurement of goods and services, and this policy must be enforced.

-Confirming Purchase Orders (those issued after the procurement of goods and services) are not acceptable as a best practice. If an emergency, or other extraordinary procurement is required there should be a written justification that accompanies it

**Purchases of surplus and secondhand goods from any source or goods purchased at auction.** If alternate proposals are required, the [municipality] would be precluded from purchasing surplus and secondhand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product

**Other Considerations:**

Sales taxes will not be reimbursed. To avoid such taxes, employees must obtain a tax-exempt number prior to any purchase.

Expenses for the purchase of alcoholic beverage is not permitted.

Conflicts of interest or the appearance of conflicts of interest must be avoided in Village procurement. In general, procurement of goods or services from employees, officers, or members of the various boards of the Village is prohibited unless authorized in advance by the Board of Trustees. Any questions which may arise should be referred to the Board of Trustees or to the Ethics Board.

Those involved in procurement should encourage participation by minority and women-owned business entities.

Violations of procurement policy will be reported to the Board of Trustees.

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