

## **Village of Mamaroneck Procurement Policy and Procedures**

### **Executive Summary**

In formalizing the Village of Mamaroneck's procurement policy to be established under the New York State General Municipal Law, the Village Manager has recommended and the Mayor and the Board of Trustees find that certain procedures and controls are necessary to ensure the efficient, effective and accountable operation of government from an expenditure standpoint.

The Board of Trustees has established the following key principles underlying Village of Mamaroneck Procurement Policy and Procedures:

1. Ensure best value for Village expenditures and cost-effectiveness;
2. Open and effective competition to drive down Village expenses, and in turn the cost to taxpayers;
3. Protect the environment by conserving water, energy, avoiding hazardous substances to the greatest extent possible, and using the lightest, smallest most durable products;
4. Encourage development of local business enterprises; and
5. The Village and vendors must follow ethical business behavior and fair dealing.

The following policy was prepared by the Village Administration by performing an analysis of purchases and expenditures made by the Village on a regular basis. This is the latest revision of the procurement policy for the Village of Mamaroneck.

### **Procurement Policy and Procedures**

1. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works or service contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the total aggregate amount to be spent on the item of supply or service is subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a Fiscal Year.

- a. Purchase Contract: **Insert definition**
- b. Public Works Contract: **Insert definition**
- c. Service Contract: **Insert definition**

2. The following items are not subject to competitive bidding pursuant to Section 103 of the NY State General Municipal Law:

- a. purchase contracts under \$20,000, or as may be further amended pursuant to GML §103 and
- b. public works contracts under \$35,000, or as may be further amended pursuant to GML §103;
- c. emergency purchases pursuant to GML §103(4);
- d. certain municipal hospital purchases pursuant to GML §103(8) ;

- e. goods purchased from agencies for the blind or severely handicapped pursuant to State Finance Law §162 & §163;
- f. goods purchased from correctional institutions pursuant to Correction Law §186;
- g. purchases under New York State, Westchester County contracts, or contracts from other political subdivisions within the United States if such contract was let in a manner that constituted public bidding and made available for use by other governmental entities or as may further be amended pursuant to GML §104;
- h. surplus and second-hand purchases from another governmental entity pursuant to §103(6);
- i. and professional services contracts.

**\*\*Note:** All vehicle purchases require approval by the Board of Trustees.

3. All goods and services will be secured by use of written requests for proposals, written quotations, or any other method that assures goods will be purchased at the lowest price, except in the following circumstances:

- a. purchase contracts over \$20,000 and public works contracts over \$35,000, or as may be further amended by GML §103;
- b. goods purchased from agencies for the blind or severely handicapped pursuant to Sections 162 & 163 of the State Finance Law;
- c. goods purchased from correctional institutions pursuant to Sec. 186 of the Correction Law;
- d. purchases under State contracts pursuant to Section 104 of the General Municipal Law;
- e. purchases under County contracts pursuant to Section 103(3) of the General Municipal Law;
- f. purchases under contracts from other political subdivisions within the United States pursuant to Section 103(16) of the General Municipal Law.
- g. or purchases pursuant to Subdivision 8 of this policy.

*Paragraphs 2a and 2b and 3a are a bit confusing to me. They seem to exempt certain purchases from competitive bidding yet such purchases are subject to the limits set forth in paragraph 4. Is it a reason specific to GML section 103? If so, a brief explanation of this provision should be included in the policy.*

4. The following method of purchase will be used when required by this policy in order to achieve the highest savings. Total aggregate purchases over the course of a Fiscal Year are to be considered in determining if an item is subject to the guidelines set forth below for purchase, public works, and service contracts.

**Estimated Amount of Purchase Contract**

\$1,500.00 - \$4,999.99

**Method**

At least 2 written/faxed/e-mail quotes;  
memo or price quotes to be documented.

\$5,000.00 - \$19,999.99	At least 3 written/faxed/e-mailed quotes; memo or price quotes to be documented.
\$20,000.00 and above	Subject to publicly advertised bid. Must be circulated to at least 3 companies. Contract must be approved by the Mayor and Board of Trustees. <i>Does Board approve actual contract or just the vendor and what is being purchased?</i> A contract must be signed by the Village Manager after Board approval is granted.

**Estimated Amount of Public Works and Service Contracts**

\$1,500.00 - \$4,999.99	<b><u>Method</u></b> At least 2 written/faxed/e-mail quotes; memo or price to be documented.
\$5,000.00 - \$34,999.99	At least 3 written/faxed/e-mailed quotes; memo or price quotes documents.
\$35,000.00 and above	Subject to publicly advertised Bid. Must be circulated to at least 3 companies. Contract must be approved by the Board of Trustees and subsequently signed by the Village Manager, .

To help ensure open and effective competition and value for taxpayers, requests to vendors must be clear and responses evaluated objectively. The Proposal Form for Purchases, Public Works, and Service Contracts less than \$\_\_\_\_\_ (attached as Exhibit I), must be filled-in by the responsible department except for the Price Quote or Bid Amount section which must be completed by the vendor. Additional documentation must be attached as requested by the department. The Proposal Evaluation Form (attached as Exhibit II) must be completed by each member of the selection committee evaluating responses to a Request for Proposals issued by the Village and publicly advertised bids.

A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotes, purchaser will document such attempts. In no event shall failure of a vendor to submit a quote be a bar to the procurement.

The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written quotes from vendors, a memo from the purchaser explaining the decision, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is

appropriate. *This paragraph should be clarified—if a purchase is not subject to competitive bidding then why would there be written quotes from vendors?*

Purchases of items made pursuant to Section 2(a) – 2(g), or any other contract issued by a governmental agency in accordance with state statute, shall not be subject to the quotes or competitive requirements in Section 3 above but shall be subject to the approval requirements of such section. Purchases of items made through these contracts must be approved by the Village Manager.

The Village extends a 5% preference on quotes to local business enterprises for supplies, equipment and nonprofessional services from \$1,500 to \$19,999. A local business is defined as “a business firm with fixed offices or distribution points located within the Village of Mamaroneck boundaries, with a Village of Mamaroneck business street address.”

The Village and its employees shall include environmental considerations when procuring goods and services. This includes the conservation of resources such as water and energy and avoidance of hazardous substances where practical. Preference should be given to the lightest, smallest most durable products that will complete the necessary tasks.

This policy shall not be construed as requiring procurement of products or services that do not perform adequately or are not available at a reasonable price in a reasonable period of time.

## 5. Purchase Orders

A Purchase Order shall be required for each purchase in excess of \$1,500 or as may be further required by a vendor. The Department Head and Village Manager must approval all Purchase Orders. An order may not be made prior to approval of the Purchase Order by the Department Head and Village Manager. Emergency purchases must follow the procedure for such purchases.

Purchase Orders will be issued for Purchase Contracts greater than \$20,000 and for Public Works and Service Contracts greater than \$35,000 following approval by the Board of Trustees and a fully executed contract signed by the Village Manager.

*Jerry—Anything else you want to say about Purchase Orders?*

6. Village of Mamaroneck employees must ensure that purchases by the Village are accompanied by a tax exempt form.

7. Documentation is required for each action taken in connection with each procurement. The documentation shall include but not be limited to Exhibits I and II, attached, and relevant written quotes, memoranda and other supporting documents. Such documentation shall be kept in accordance with the Village’s records and retention policy.

*Committee and Jerry should discuss this process.*

8. Documentation and an explanation is required whenever a contract is not awarded to other than the lowest response. This documentation could include an explanation of how the award will achieve savings or why the offer was not acceptable. Such determination shall be made by the purchaser and may not be challenged under any circumstances. *What if Jerry is asked to sign a contract but wants to challenge the explanation as to why a contract is not awarded to the lowest response?*

9. As provided in New York State Law, in order to comply with terms calling for timely remittances to vendors upon the delivery of materials or supplies or the rendering of services to the Village for the conduct of its affairs, payments for items such as utilities, postage or other items requiring payment, as further identified in NYS Village Law §5-524(6), may be made in advance of a Board of Trustees audit, provided such payments are duly approved by a department head, the Village Manager and the Village Treasurer. Such payments made in advance of a Board of Trustees audit shall be presented to the Board of Trustees for ratification. Each department shall take advantage of discounts where available and process those payments in a timely manner to ensure compliance with vendor terms.

8. **Required Statements.** The following statements must accompany the submission of any request for proposal solicited by the Village of Mamaroneck.

- i. **The Iran Divestment Act.** Every written offer made to the Village of Mamaroneck must contain the following statement subscribed and affirmed by the bidder 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 State Finance Law § 165-a(3)(b).

The Village of Mamaroneck 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 Village of Mamaroneck makes a determination that the goods or services are necessary for the Village of Mamaroneck to perform its functions and that, absent such an exemption, the Village 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 [insert name of political subdivision] 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 which have been 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.

9. Pursuant to General Municipal Law Section 104-b(2)(f), the procurement policy may contain circumstances when, or types of procurements for which, in the sole discretion of the governing body, the solicitation of proposals through a Request for Proposals process that does not require selection of the lowest responsive bidder may be in the best interest of the Village. *Does the Village have a standard form RFP which includes certain required elements?* Such circumstances include:

- a. Professional services or services requiring special or technical skill, training or expertise, such as architects, attorneys, insurance coverages, engineers and other professional consultants. The individual or company must be chosen based on qualifications showing accountability, reliability, responsibility, skill, education and training, judgment, integrity, and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures. In circumstances where the cost of

professional services is estimated to exceed \$10,000 in a fiscal year, a Request for Proposal process may be conducted which will give the Village the flexibility to retain services based on a firm's or individual's expertise, training and experience and not limited solely to costs.

In determining whether a service fits into this category the Board of Trustees shall take into consideration the following guidelines: (a) whether the services are subject to State licensing or testing requirements; (b) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and (c) whether the services require a personal relationship between the individual and municipal officials. Professional or technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of pre-packaged software.

- b. Emergency purchases pursuant to Section 103(4) of the General Municipal Law. 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 or welfare of the residents. This section does not preclude alternate proposals if time permits. Emergency situation must be documented. *This section should be expanded.*
- c. Purchases of surplus and second-hand goods from any source. If alternate proposals are required, this limits the sources through which the Village can purchase goods. For example, if quotes are required, the Village would be precluded from purchasing items at auction. Additionally, it is not appropriate to procure used or second-hand goods on a quote comparison basis as a lower price is typically indicative of poorer quality. For example, if the Village were desirous of purchasing a used vehicle, a lower price would indicate that it is likely in poor condition, would require enhanced maintenance and have a reduced expected useful life whereas a higher price would indicate that the vehicle is well maintained and will have a longer service life.
- d. Individual goods or services under \$1,500. The time and documentation required to purchase through this policy may be more costly than the item itself and would therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de minimus contracts would be awarded based on favoritism. *What documentation, if any, is required for purchases less than \$1,500?* However, it is recommended whenever possible that the Village try to obtain three (3)



comparison bids/prices, or purchase off of State or County contracts to realize the best price. If the aggregate amount is expected to exceed \$20,000 for any one vendor during a fiscal year, a public bid is required unless such purchase is being made in accordance with Sections 3(b) through 3(f) above.

10. Authorized Officials responsible for the use of the Village of Mamaroneck credit card purchases will accept responsibility that purchases are made in accordance with the Village of Mamaroneck Procurement Policy and Procedures and the Village's Credit Card Usage Policy.
  - a. The Board of Trustees may authorize the certain officials/employees of the Village of Mamaroneck be issued credit cards, under a Village master credit card account, for purpose of facilitating departmental purchases. These credit cards are administered under the provisions of the Village's Procurement Policy. Credit cards shall only be used for business related expenses.
  - b. No department shall request a "store" credit card account under the Village of Mamaroneck unless previously authorized by the Village Manager. No additional bank credit lines or accounts will be established without authorization of the Village Manager.
  - c. This section does not pertain to vendor accounts established for the purpose of "buying on account" (i.e. A House Account) with an invoice subsequently sent to the Village for payment. These accounts are established on an as needed basis through the Clerk – Treasurer's office.
    - i. The following officials/employees are authorized to have credit cards under a Village master credit account:  
AGGREGATE TOTAL \$25,000
      1. Village Manager Robert A. Yamuder - \$5,000
      2. Assistant Village Manager Daniel J. Sarnoff - \$5,000
      3. Police Chief Christopher Leahy - \$5,000
      4. Village Clerk/Treasurer Agostino A. Fusco -\$5,000
      5. Recreation Superintendent Sandy Korkatzis - \$5,000

*Don't know how much credit cards are used. But if it is a material amount then a credit card policy should be in place that requires monthly reconciliation and approval by the Village Manager and Village Clerk/Treasurer for the Village Manager's credit card with some actions taken for violations of the policy. The number of people with credit cards is small, and the amounts low but this is often a closely scrutinized privilege in public and not-for-profit organizations so some protections should be included in in this policy.*

11. This policy shall go into effect immediately upon adoption by the Board of Trustees and will be reviewed annually.