

# Village of Pleasantville Purchasing Policy

This resolution sets forth the policy and procedures of the Village of Pleasantville to meet the requirements of General Municipal Law § 104-b, which requires each political subdivision to adopt procurement policies and procedures.

## I. STATEMENT OF POLICY AND PURPOSE

Goods and services that are not required by law to be procured pursuant to the competitive bidding requirements of General Municipal Law § 103 must be procured in a manner that assures use of public moneys in a prudent and economical manner and in the best interest of the taxpayers, facilitates the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and guards against favoritism, improvidence, extravagance, fraud, and corruption. To further these objectives, the governing board is adopting an internal policy and procedures to govern the procurement of all goods and services that are not subject to the competitive bidding requirements of General Municipal Law § 103 or any other general, special, or local law.

## II. APPLICABILITY OF THIS POLICY

The policies and procedures outlined herein apply to the procurement of every good or service procured by the municipality that are not required to be made pursuant to the competitive bidding requirements General Municipal Law § 103 or of any other general, special or local law.

**A. Purchase or Public Works Contract Determination.** Every proposed purchase must initially be reviewed to determine whether it constitutes a purchase contract or a public works contract. In general, purchase contracts involve the acquisition of commodities, materials, supplies, or equipment, while contracts for public work involve labor or construction. For the purposes of this policy, routine service contracts (e.g. grounds maintenance, vehicle maintenance and repair, janitorial services) will be considered purchase contracts for the applicable methods of procurement and adequate documentation.

**B. Aggregate Amount Determination.** Once the determination is made regarding whether the procurement constitutes a purchase contract or a public works contract, a good-faith effort will be made to determine whether it is known, or can reasonably be expected, that the aggregate amount to be spent on the goods or services falls below the monetary threshold for state competitive bidding laws set forth under General Municipal Law § 103. This determination must take into account past purchases and the aggregate amount to be spent in a year.

Due to past history, general knowledge, cost, efficiency or other urgent need, some Purchase and Service Contracts over \$1,500 but under \$19,999, may be awarded directly without obtaining multiple quotes. Permission must first be obtained in writing by the Department Head from either the Mayor or the Village Administrator before awarding any contract based on this provision.

**C. Procurements Subject to State Competitive Bidding.** The following items are subject to competitive bidding pursuant to General Municipal Law § 103 and must be procured through the procedure outlined therein:

- ☐ purchase contracts over \$20,000; and
- ☐ public

works contracts over \$35,000 (aggregate project amount).

**D. (i) Procurements Not Subject to State Competitive Bidding Requirements.** The following items are either not subject to or are exceptions to General Municipal Law § 103 competitive bidding requirements:

- ☐ purchase contracts under \$20,000 and public works contracts under \$35,000;
- ☐ emergency purchases;
- ☐ certain municipal hospital purchases;
- ☐ goods purchased from agencies for the blind or severely handicapped;
- ☐ goods purchased from correctional institutions;
- ☐ purchases under state and county contracts; and
- ☐ surplus and secondhand purchases from another governmental entity.
- ☐ goods purchased through the Empire State Purchasing Group or Sourcewell (formerly National Joint Powers Alliance), provided that the contract is let in a manner that constitutes competitive bidding consistent with NYS law, made available for use by other governmental entities and subject to the approval of the Village Board.

**(ii) Documentation Required.** The determination that a purchase is not subject to competitive bidding requirements under General Municipal Law § 103 must be documented in writing by the authorized purchaser. This documentation may include:

- ☐ written or verbal quotes from vendors; or
- ☐ a memo from the authorized purchaser indicating how the decision was arrived at; or
- ☐ a copy of the contract indicating the source that makes the item or service exempt; or
- ☐ a memo from the authorized purchaser detailing the circumstances that led to an emergency purchase; or
- ☐ any other written documentation that is appropriate.

**E. Statutory Exceptions to Quotations/Proposals Requirements of This Policy and Procedures.**

All goods and services will be secured in accordance with this policy except in the following circumstances:

- ☐ purchase contracts over \$20,000 and public works contracts over \$35,000 competitive bidding procedures General Municipal Law § 103;
- ☐ goods purchased from agencies for the blind or severely handicapped pursuant to State Finance Law § 175-b;
- ☐ goods purchased from correctional institutions pursuant to Correction Law § 186;
- ☐ purchases under state contracts pursuant to General Municipal Law § 104;

- ☐ purchases under county contracts pursuant to General Municipal Law § 103(3);
- ☐ purchases let by other governmental entities pursuant to General Municipal Law § 103(16); or
- ☐ other items excepted from this policy (see section, “Items Excepted from this Policy and Procedures by the Board”); or where other exceptions provided by law apply.

### **III. ADOPTION OF PROCEDURES**

The following procedures identify the methods of competition and the means of adequate documentation to be used for the procurement of goods and services subject to this policy.

#### **A. Methods of Procurement**

The methods of procurement to be used are as follows:

1. Discretion of authorized purchaser
2. Verbal estimates
3. Written quotations
4. Requests for proposals

#### **B. Adequate Documentation**

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

<b>Estimated Amount of Purchase or Service Contract</b>	<b>Method</b>
\$1500 - \$5000	2 verbal quotes
\$5001 - \$19,999	3 written/fax quotes or written RFPs

<b>Estimated Amount of Public Works Contract</b>	<b>Method</b>
\$1,500 - \$7,500	2 verbal quotes
\$7,501 - \$34,999	3 written/fax quotes or written RFPs

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 quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

**C. Required Statements for Submissions Made Pursuant to Competitive Bidding.** If the goods or services to be procured must be acquired by competitive bidding pursuant to General Municipal Law § 103 or any other general, special or local law, the following statement must accompany such bid:

**i. Statement of Non-Collusion.** Every written offer made to the Village of Pleasantville 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.

**ii. Statements for Non-Bid Procurements.** Offers submitted in a manner other than competitive bidding shall also contain the above statements; however, the failure to include them shall not result in their automatic rejection.

**iii. The Iran Divestment Act.** Every written offer made to the Village of Pleasantville must contain the following statement subscribed and affirmed by the offeror as true under penalties of perjury:

By the submission of this offer, each offeror and each person signing on behalf of any offeror certifies, and in case of 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 Financial Law §165-a(3)(b).

The Village of Pleasantville 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 Pleasantville makes a determination that the goods or services are necessary for the Village 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.

**iv. Sexual Harassment Policy.** Every written offer made to the Village of Pleasantville must contain the following statement subscribed and affirmed by the offeror as true under penalties of perjury

By the submission of this offer, each offeror and each person signing on behalf of any offeror certifies, and in case of joint offer each party thereto certifies as to its own organization, under

penalty of perjury, that to the bidder has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment training to all employees pursuant to State Finance Law § 139-L.

#### **IV. AWARDS TO OTHER THAN THE LOWEST RESPONSIBLE DOLLAR OFFEROR**

Whenever a contract is awarded to someone other than the lowest responsible dollar offeror, the reasons why the award furthers the purposes of General Municipal Law § 104-b shall be documented as follows:

**A. Best Value.** Notwithstanding anything else contained in this policy, the Village of Pleasantville may award purchase contracts and service contracts that have been procured pursuant to competitive bidding under General Municipal Law § 103(1) or otherwise under this policy by either the lowest responsible bidder standard or the best value standard.

**i. Definition.** “Best value” is defined in State Finance Law § 163 as, “the basis for awarding contracts for services to the offeror which optimizes quality, cost and efficiency, among responsive and responsible offerors.” For the purposes of this section, the Village of Pleasantville adopts the above definition of “best value” as may be modified from time to time by the State Legislature.

**ii. Applicability.** The best value standard may only be used for purchase contracts, which includes contracts for service work, but excludes any purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the Labor Law. When awarding contracts under the best value standard, the Village of Pleasantville must consider the overall combination of quality, price, and other elements of the required commodity or service that in total are optimal relative to the needs of the Village of Pleasantville. Use of the best value standard must rely, wherever possible, on objective and quantifiable analysis. The best value standard may identify as a quantitative factor whether offerors are small businesses or certified minority- or women-owned business enterprises as defined in New York Executive Law § 310.

**iii. Approval.** Use of the best value standard for the procurement of goods and services requires approval from the Village of Pleasantville. The Village Board of Trustees must also approve the factors to be considered when awarding contracts under this standard.

#### **V. ITEMS EXCEPTED FROM THIS POLICY AND PROCEDURES BY THE BOARD**

Pursuant to General Municipal Law § 104-b(2)(g), this policy may contain circumstances 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 municipality. In the following circumstances it may not be in the best interests of the Village of Pleasantville to solicit quotations or document the basis for not accepting the lowest bid:

- A. Professional services or services requiring special or technical skill, training or expertise.** The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth. 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 determining whether a service fits into this category the individual or body making the purchase shall take into consideration the following guidelines:

- (i) whether the services are subject to state licensing or testing requirements;
- (ii) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and
- (iii) 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 prepackaged software.

To the extent practicable, professional services are to be obtained through requests for proposals issued by the Village of Pleasantville’s authorized purchasers. All RFPs are to be reviewed by the authorized purchasers, who will make a recommendation to the Village Board of Trustees for final approval. The determination of the RFP will be based on clearly described and documented criteria, and will include the evaluation of the service provider’s accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth. In the event an RFP is not used to procure a professional service, no contract shall be awarded without written documentation of the procurement process and evaluation methods used.

**B. 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 the Village of Pleasantville. 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.

**C. 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 Village of Pleasantville 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.

**D. Purchases of surplus and secondhand goods from any source or goods purchased at auction.**

If alternate proposals are required, the Village of Pleasantville 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.

**E. Goods or services under \$1500.** 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 minimis contractors would be awarded based on favoritism.

**F. Cooperative or Piggyback Contracts.** General Municipal Law § 103(16) allows for the procurement of certain goods (including apparatus, materials, equipment and supplies) and services through contracts let by the United States or any agency thereof, any state or any other political subdivision or district therein, if such contract was let in a manner consistent with competitive bidding, and has been made available for use by other governmental entities. The stated purpose is to reduce administrative and product cost, and increase efficiencies. Through cooperative purchasing, or piggybacking, a governmental subdivision has already investigated and secured the lowest possible price for the municipality.

**G. Shared Services or Efficiencies.** When participation or procurement will constitute a shared service or efficiency it shall be exempt from this policy. Municipalities are encouraged and authorized to share services and work together when possible.

**F. Recycled and Green Products.** When purchases are of recycled and green products, including renewable energy sources, it shall be exempt from this policy.

## **VI. INDIVIDUAL(S) RESPONSIBLE FOR PURCHASING**

Village Management staff to include the titles of Village Administrator, Village Treasurer, Superintendent of Public Works, Superintendent of Recreation, Director of Senior Services, Police Chief, Police Lieutenant, Court Clerk, Deputy Village Treasurer, and Administrative Aide are authorized purchasers for the Village.

Village Administrator will be responsible for review of competitive bidding procedures.

Village Treasurer will be responsible for review of purchasing procedures.

## **VII. INPUT FROM OFFICERS**

Comments have been solicited from officers of the political subdivision or district therein involved in the procurement process prior to the enactment of this policy and procedures, and will be solicited from time to time hereafter.

### **VIII. ANNUAL REVIEW**

The governing board of Village of Pleasantville shall annually review and, when necessary, update this policy and its procedures.

### **IX. UNINTENTIONAL FAILURE TO COMPLY**

The unintentional failure to comply fully with the provisions of General Municipal Law, § 104-b shall not be grounds to void action taken or give rise to a cause of action against the Village of Pleasantville or any officer or employee thereof.

### **X. RESOLUTION**

Adopted on January 28, 2019, Resolution 2019-17 by 5-0 vote of the governing board of the Village of Pleasantville.