

## **Procurement Policy of the Village of Tivoli**

*Approved by the Board of Trustees of the Village of Tivoli pursuant to General Municipal Law, section 104-b, last amended \_\_\_\_\_, 2013.*

### **I. Purpose**

Goods and services that are not required by law to be procured pursuant to competitive bidding must be procured in a manner as to assure the prudent and economical use of public moneys in the best interest of the taxpayers; to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances; and to guard against favoritism, improvidence, extravagance, fraud, and corruption.

To further these objectives, the Board of Trustees has adopted this policy governing all procurements of goods and services which are not required to be made pursuant to the competitive bidding requirements of General Municipal Law, Section 103 (GML Sec. 103) or of any other general, special, or local law.

### **II. Procedures for Determining Whether Procurements are Subject to Bidding**

The procedure for determining whether a procurement of goods or services is subject to competitive bidding and documenting the basis for any determination that competitive bidding is not required by law is as follows:

Every prospective purchase of goods or services shall be evaluated to determine the applicability of GML Sec. 103. Every officer, department head or other personnel with the requisite purchasing authority (hereinafter Purchasers) shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvass of other departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

In accordance with GML Sec. 103, the Purchaser shall consider the reasonably expected aggregate amount of all purchases of the same commodities, services or technology to be made within the twelve-month period commencing on the date of purchase. Purchases of commodities, services or technology shall not be artificially divided for the purpose of satisfying the discretionary buying thresholds established by GML Section 103. A change to or a renewal of a discretionary purchase shall not be permitted if the change or renewal would bring the reasonably expected aggregate amount of all purchases of the same commodities, services or technology from the same provider within the twelve-month period commencing on the date of the first purchase to an amount greater than GML Section 103 threshold amount.

All purchases of a) supplies or equipment which will exceed \$20,000 in the fiscal year or b) public works contracts over \$35,000 shall be formally bid pursuant to GML, Sec.103, except to

the extent an exception applies and is documented by the Purchasing Officer and filed with the Clerk. Where a procurement of items or services is subject to formal public bidding, the Board of Trustees shall approve the solicitation of bids and the bid award, the bidding procedures shall be conducted through the office of the Clerk in accordance with GML Sec. 103, and the Clerk shall maintain the procurement record including specifications, affidavit of publication, record of bids received, record of bid award, and contract.

**III. Methods of Competition to be Used for Non-Public Bid Procurements**

Alternative proposals or quotations for goods and services shall be secured by use of either written requests for proposals, written quotations, verbal quotations or any other method of procurement that furthers the purposes of the GML Sec. 104-b, as follows:

<b>Public Works Contracts</b>	<b>Procurement Requirement</b>	<b>Approving Officer(s)</b>
\$35,000 or more	Formal public bid (unless statutory exception)	Board of Trustees as to solicitation and award
Less than \$35,000 but not less than \$10,000	Written RFP and written/fax/email proposal from at least 3 contractors	Board of Trustees as to award
Less than [\$10,000] but greater than [\$3000]	Written RFP and written/fax/email proposal from at least 2 contractors	Mayor or Deputy Mayor as to award
[\$3000] or less but over [\$250]	Oral request and oral quotes from at least 2 contractors	Mayor or Deputy Mayor or Trustee Liason as to Award
<b>Purchases</b>		
\$20,000 or more	Formal public bid (unless statutory exception)	Board of Trustees as to solicitation and award
Less than \$20,000 but greater than [\$3000]	Written RFP and written/fax/email quote from at least 3 vendors	Board of Trustees as to award
[\$3000] or less but over [\$250]	Oral request and oral quotes from at least 2 vendors	Mayor or Deputy Mayor or Trustee Liason as to Award

The material, equipment, supplies and/or services to be purchased shall be of the quality and in the quantity required to serve the function in a satisfactory manner, as determined by the Purchaser as approved by the approving officer.

It is the responsibility of the approving officer to make alternative suggestions to the Purchaser if, in the judgment of the approving officer, the specifications would restrict competition or otherwise preclude the most economical purchase of the required items. In case of disagreement as to the contents of the specifications, the Board of Trustees, after reviewing all available data, should make the final determination.

#### **IV. Purchase Order Procedures**

Before purchasing any commodities or services, the Purchaser must receive confirmation of the availability of appropriated funds by submitting a Purchase Order to the Village Treasurer. The Village Treasurer will indicate on the Purchase Order the availability of appropriated funds for the purchase from a specific budgeted account. If an appropriation balance is available, the Village Treasurer will enter the encumbrance against the account. Where the Purchaser is the Treasurer, the Budget Officer will countersign the Purchase Order.

In instances where a purchase exceeds the available appropriation balance for that line item, the Purchase Order will not be approved and the encumbrance will not be entered until such time as appropriate action is taken by the Board of Trustees to amend the budget.

The following do not require a purchase order:

1. Executed contracts for personal services (encumbered on the basis of contracts and not to exceed authorization by the Authorizing Officer).
2. Employee expenses such as pre-approved conference expenses, mileage, membership or organizational dues, and other reimbursable expense in performance of day-to-day duties. Such expenses are to be documented in writing on forms required by the Clerk.
3. Reimbursement of petty cash funds.
4. Utilities or other service contracts for a fixed monthly or annual amount (encumbered on the basis of the contract or budgeted amount).
5. Interdepartmental charges.
6. Medical examinations.
7. Postage, legal notices, and other required notices.

#### **V. Adequate Documentation**

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

The Purchaser or the Mayor, Deputy Mayor, Clerk/Treasurer must attest to the delivery of commodities or services by approval of the voucher or other written approval presented to the Village Treasurer.

The Purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax/oral quotes offered. All information gathered in complying with the procedures of this Policy shall be preserved and filed with the Treasurer together with any other documentation supporting the subsequent purchase or public works contract. Documentation of bidding requirements and required quotes may include memoranda, written quotation forms, telephone logs (for verbal quotes), RFPs, and copies of State or county contracts as applicable.

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 shall

document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

The procurement record provided by the Purchaser to the Treasurer shall include a notation as to whether the purchase (i) complied with public bid procedures, (ii) complied with the RFP/RFQ procedures in this policy, (iii) was exempt from this policy and stating the reason for exemption. The Clerk may from time to time issue forms to be used by all Purchasing Officers for procurement records such as RFP solicitation or quotation forms.

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

Whenever any contract exempt from the GML Sec. 103 bidding thresholds is awarded to other than the lowest responsible dollar offeror, the reasons that such an award furthers the purpose of GML Sec. 104-b, as set forth herein above, shall be documented by written memorandum or other record presented to the Board of Trustees. Such circumstances may include, e.g., delivery requirements, quantity requirements, the location of the vendor if Village pickup is required, past experience with the vendor, etc.)

## **VII. Items Excepted From This Policy and Procedures**

The Village Board of Trustees has determined that in the following circumstances the solicitation of alternative proposals or quotations are not required, in the best interest of the Village. A good faith effort should be made to insist that the best price be paid taking into account all facts and circumstances.

*Emergency:* In the case of a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of a political subdivision or district therein, require immediate action which cannot await competitive bidding or competitive offering, contracts for public work or the purchase of supplies, material or equipment may be let by the Mayor or Deputy Mayor.

*Sole source:* Procurement without solicitation of proposals or quotations may be approved on the recommendation of the Purchaser, with the approval of the Mayor, Deputy Mayor, Board Liason or Board of Trustees as set forth in Section III of this policy, when the Village, in the public interest, requires an item for which there is no reasonable equivalent and which is available from only one source so that there is no possibility of competition.

*Except when directed by the Board of Trustees, solicitation of proposals or quotations is not required under the following circumstances:*

Professional services;

Goods purchased from agencies for the blind or severely handicapped; Goods purchased from correctional facilities;

Goods purchased directly from another governmental agency;

Good purchased under County or State (OGS) contracts when permitted by State law (see GML Sec. 103);

Goods purchased at public auction;

Goods purchased for less than \$250.00 and Public works contracts for less than \$250.00.

*Piggybacking public contracts:* With the approval of the approving officer as set forth in Section III of this policy, the Village may use a contract let by the United States of America or any agency thereof, any state or any other county or political subdivision or district therein if such contract was let in a manner that constitutes competitive bidding consistent with state law and made available for use by other governmental entities. Such contracts may be through entities other than Dutchess County only in consultation with the attorney for the Village.

*Professional services* and certain other services requiring specialized or technical skills, expertise or knowledge, the exercise of professional judgment, or a high degree of creativity, including insurance services, engineering, architect, surveyor, medical, attorneys, and computer technicians, are not required to be procured by competitive bidding. The Board of Trustees may determine from time to time to issue and request for qualifications or request for proposals for such services, and at least every three years, the Board of Trustees will review the historical and expected use of such services and determine whether to issue a request for proposals or request for qualifications to solicit such services.

An RFP or RFQ for professional services should provide detailed information concerning the type of service to be provided including minimum requirements and, where applicable, the evaluation criteria that will govern the contract award. The evaluation criteria can include factors in addition to price (e.g., experience, staff availability, and estimated completion times). Proposals can be solicited through public advertisement and/or a comprehensive list of potential vendors can be compiled with vendors contacted directly and provided with the RFP or RFQ.

**Individuals Responsible for Procurement (“Purchasers”)**

Unless otherwise determined by the Board of Trustees, the following officers and employees may procure items from time to time within the scope of current budgetary authority for their respective departments, subject to (i) purchase order procedures set forth in Section IV of this policy or as approved from time to time by the Board of Trustees; (ii) the authorization by the Board of Trustees as to procurement of items or services exceeding GML Section 103 bid thresholds; and (iii) approval of the Mayor, Deputy Mayor, Trustee Liason, for items over [\$250] and under the GML 103 bid thresholds, as set forth in Section III of this policy.

<u>Purchasers:</u>
Mayor
Deputy Mayor
Trustee Liason for Department
Clerk/Treasurer
Deputy Clerk
DPW Superintendent
Fire Chief
Court Clerk

**Input From Officers**

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

**Annual Review**

The Board of Trustees shall annually review and, when needed, update this policy and procedures.

**Unintentional Failure to Comply**

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

**Notice to Vendors**

The Village of Tivoli will not be responsible for purchases or orders made without prior authorization from the Approving Officer and a Purchase Order as required by this Policy.