

VILLAGE OF MIDDLEBURGH

PROCUREMENT POLICY AND PROCEDURE

Adopted: October 7, 2024

Resolution #12-2024

PROCUREMENT POLICY

It is the policy of the Village of Middleburgh (the “Village”) that every purchase of goods or services shall comply with all applicable federal and state law, and in particular with NY General Municipal Law (GML) Section 103 and its bidding procedures.

It is also the Village’s policy to avoid favoritism and the appearance of impropriety with respect to ALL of its purchases of goods and services, and at all times to contract with counterparties that provide the best value to the Village, as such term is defined in Section 3 (b), below.

The following procedures are intended to effect the above policies.

PROCUREMENT PROCEDURE

1. (a) Every purchase to be made by the Village must be initially reviewed to determine whether it is a purchase contract or a public works contract as defined under GML Section 103. 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 aggregate amount to be spent on the item of supply or service does or does not subject the purchase to competitive bidding under GML Section 103, taking into account past purchases and the aggregate amount to be spent in a year.

(b) The following items are not subject to competitive bidding pursuant to Section 103 of the GML:

- i. purchase contracts less than or equal to \$20,000;
- ii. public works contracts less than or equal to \$35,000;
- iii. emergency purchases;
- iv. goods purchased from agencies for the blind or severely handicapped;
- v. goods purchased from correctional institutions;

- vi. purchases under State and County contracts; and
- vii. surplus and second-hand purchases from another governmental entity.

The decision that a purchase over [\$10,000] in value is not subject to competitive bidding under GML Section 103 will be documented in writing by Mayor or such other person as he directs. This documentation may include written quotes from vendors, a memo from the Mayor indicating how the decision was arrived at, 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.

2. The procurement of any goods and services greater than [\$5,000] in value that is not subject to competitive bidding pursuant to Section 103 of the General Municipal Law will be secured by use of a written requests for proposals, written quotations, or any other method that assures that goods or services will be purchased at the best value and that favoritism will be avoided.

3. (a) At a minimum, the following method of purchase will be attempted when required by this policy in order to achieve the best value:

ESTIMATED AMOUNT OF PURCHASE CONTRACT	METHOD
\$1,000.00 - \$4,999.00	Two (2) Written/Fax Quotations or written requests for proposals
\$5,000.00 - \$20,000.00	Three (3) Written/Fax Quotations or written request for proposals
ESTIMATED AMOUNT OF PUBLIC WORKS CONTRACT	METHOD
\$1,000.00- \$4,999.00	Two (2) Written/Fax Quotations or written requests for proposals

\$5,000.00 - \$35,000.00

Three(3) Written/Fax
Quotations or written request
for proposals

A good faith effort shall be made to obtain the number of proposals or quotations indicated above. If the Village is unable to obtain the indicated number of proposals or quotations, then the Village will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the indicated number of proposals be a bar to the procurement.

(b). Pursuant to GML Section 103, purchase contracts of over \$20,000 (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to article eight of the labor law) may be awarded on the basis of best value, as defined in NY State Finance Law Section 163,¹ to a responsive and responsible bidder or offerer in the manner provided by GML Section 103. All other purchases shall be awarded based upon best value determined on the basis of price, planned use, quality of merchandise, suitability of merchandise, the service reputation of the vendor, and the vendor's judgment, and integrity. The Village's documented past experience with the vendor may also be considered in determining best value.

4. Documentation is required of each procurement above [\$1,000] in value. In all events, the person requesting the purchase shall be required to complete a project quote history form as established by the Village, including copies of all substantiation documentation. In no event shall purchases falling within this policy be made without such compliance.

5. Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the award will achieve best value or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by [the purchaser] and [approved by the Board of Trustees in its sole discretion], and may not be challenged under any circumstances.

6. As permitted by GML 104-b (2) (g), the Village may purchase goods or services without the solicitation of alternative proposals or quotations when such solicitation will not be in the best interest of the municipality, as determined in the sole discretion of the

¹ NY State Finance Law Section 163 (1) (j) currently states: ““Best value” means the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerers that are small businesses, certified minority- or women-owned business enterprises as defined in [subdivisions one, seven, fifteen](#) and [twenty of section three hundred ten of the executive law](#) or service-disabled veteran-owned business enterprises as defined in subdivision one of section forty of the veterans' services law to be used in evaluation of offers for awarding of contracts for services.”

[Village Board of Trustees]. In the following circumstances it may not be in the best interest of the Village to solicit quotations or document the bases for not accepting the lowest bid:

7.

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 Town Board 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 may be purchased only after a determination that (i) such purchase must occur immediately and (ii) 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. This section does not waive the requirement that only the appropriate officer, board or agency of the Town is authorized to make purchases.

c. Purchases of surplus and second-hand goods from any source.

d. Goods or services under [\$ 1000.00].

e. “Piggybacking” if and to the extent permitted by state law. [I BELIEVE GML SECTION 103 (16) EXPIRED IN 2021.]

8. Neither the Mayor nor the Board of Trustees will approve any purchase of over [\$5,000.00] in value until the vendor acknowledges in writing its receipt of, and agreement to comply with, this Procurement Policy.

9. The individual or individuals responsible for approving purchases and their respective duties are as follows:

Village Mayor: The Village Mayor must approve all purchases of goods and services, except those purchases of less than \$1,000.00 may be made by the Village Superintendent of the Department of Public Works and by the Village Clerk without the approval of the Mayor. In the absence of the Mayor, the Deputy Mayor shall approve all purchases of goods and services

Village Board of Trustees: The Village Mayor (or Deputy Mayor) must seek the further approval of the Board of Trustees with respect to all purchases of goods and services over [\$2,000.00] in value.

10. Standard utilities such as electric service, telephone service, internet service and the like are not subject to this Procurement Policy. Additionally, the following purchases are not subject to this Procurement Policy:

- a. Oil, grease and other fluids necessary for regular maintenance of vehicles and equipment
- b. Ice control sand and salt
- c. Diesel, gasoline and/or kerosene
- d. Crusher run, pot hole patch, and/or paving material
- e. Heating oil

provided, however, that the forgoing purchases are procured under:

- (i) State contract pursuant to Section 104 of the General Municipal Law or
- (ii) competitive bidding pursuant to Section 103 of the General Municipal Law

and provided further that documentation of such procurement is provided to the Village Board.

11. This policy shall go into effect as of the date first written above and be reviewed annually.

BOARD OF TRUSTEES OF THE VILLAGE OF MIDDLEBURGH

Village Clerk