

Town of Wayne
New York

BOARD RESOLUTION #X OF 2020

AUTHORIZING THE ADOPTION OF A TOWN OF WAYNE PROCUREMENT AND SURPLUS POLICY

By _____(signed), _____(date)

WHEREAS, the Town of Wayne maintains and annually adopts a Procurement and Surplus Policy, which regulates competitive bidding and public service contracts so that taxpayers may receive goods and services at the lowest reasonable prices; and

WHEREAS, New York State General Municipal Law requires municipalities to annually review their Procurement Policies in order to update the same with any new legislation which may change competitive bidding limits; and

WHEREAS, _____ has reviewed the current Town of Wayne Procurement and Surplus Policy and has determined that it is compliant with the provisions of the New York General Municipal Law.

NOW, THEREFORE, BE IT RESOLVED that the Town of Wayne Procurement and Surplus Policy is hereby adopted as being compliant with New York State General Municipal Law and that all of the terms set forth in this Policy are continued and authorized in its current form.

Seconded by _____

(STATE OF NEW YORK) SS.: COUNTY OF STEUBEN)

I, _____, Clerk of the Town of Wayne, Steuben County, New York (the "Town"), DO HEREBY CERTIFY:

That I have compared the annexed abstract of the minutes of the meeting of the Board of the Town (the "Board"), held on the __ day of ____, 2020, including the Board Resolution #X of 2020 contained therein, with the original thereof on file in my office, and the attached is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this XX day of _____, 2020.

_____, Clerk Town of Wayne, Steuben County, New York

Town of Wayne, NEW YORK

2020 PROCUREMENT AND SURPLUS POLICY

SUBJECT TO OPEN COMPETITIVE BIDDING - Purchases over \$20,000 (Aggregated Annually)
Public Work Contracts over \$35,000

1. Pursuant to New York State General Municipal Law Section 103 (GML 103) all contracts for public work involving an expenditure of more than thirty-five thousand dollars (\$35,000) and all purchase contracts involving an expenditure of more than twenty thousand dollars (\$20,000), shall be awarded through an open competitive bid process by the Town Board to the lowest responsible bidder furnishing the required security after advertisement for sealed bids. Purchases of commodities, services or technology shall not be artificially divided for the purpose of avoiding competitive bidding procedures.

2. Open competitive bidding shall be achieved by publishing advertisements in the Town's official newspaper and on the Town's website. Such advertisement shall contain a statement of the time and place where all bids received pursuant to such notice will be publically opened and read and where the identity of all offerors will be publically disclosed. Whenever a contract is awarded to someone other than the lowest responsible offer, documentation and an explanation are required. This documentation will include an explanation of how the award will receive savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

3. Exceptions to GML 103:

a. Best Value Law (Subdivision 1 - GML 103). Best value is defined for this purpose as a basis for awarding contracts to the offeror which optimizes quality, cost and efficiency, among responsive and responsible offerors. To use this exception to GML 103 two requirements must be met:

i. The offeror is responsive and responsible.

ii. The best value determination must be made on objective and quantifiable standards that the offer optimizes quality, cost and efficiency. Written justification is required if an award is made based on best value instead of the lowest responsible bidder.

b. Emergency Situations. 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 the City, 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 with Town Manager approval. When at all possible, quotations shall be obtained for the emergency services.

c. Surplus and Second-hand Items. Surplus and second-hand supplies, material or equipment may be purchased without competitive bidding or competitive offering from the

federal government, the state of New York or from any other political subdivision, district or public benefit corporation.

d. Piggybacking Law (Subdivision 16 - GML 103). This addition authorizes the purchase of apparatus, materials, equipment and supplies, and related installation, repair and maintenance of those items through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision or district there in given the contract was made available for use by other governmental entities. To use this exception to GML 103 three prerequisites must be met:

i. The contract must have been let by the United States or any agency thereof, any state or any other political subdivision or district therein.

ii. The contract must have been made available for use by other governmental entities

iii. The contract must have been let to the lowest responsible bidder or the basis of best value in a manner consistent with this section.

e. State Contracts. Service contracts entered into through the New York State Office of General Services. In these instances, the State has already investigated and secured the lowest possible price for the municipality. f. Professional Services. Pursuant to General Municipal Law §104-b(2)(f), the procurement policy may contain circumstances when, or types of procurement 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 Town of Wayne to solicit quotations or document the basis for not accepting the lowest bid:

i. 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 municipality owned property; and computer software or programming services for customized

programs, or services involved in substantial modifications and customizing of pre-packaged software.

g. Sole Source. When the subject of a contract is controlled by a sole source so that there is no possibility of competition, and the purposes of competitive bidding would not be furthered by inviting bids, competitive bidding is not required. This exception is only applicable in limited circumstances when, in the public interest, particular goods or services are required that uniquely serve the public interest for which there is no substantial equivalent and that are, in fact, available from only one source. The mere likelihood that only one firm will bid, however, is insufficient to justify sole source procurement. Further, the Town may not artificially create a sole source situation such as by, without proper justification, tailor bid specifications to limit competition to only one bidder or brand.

NOT SUBJECT TO OPEN COMPETITIVE BIDDING - Purchases under \$20,000 Public Work Contracts under 35,000

1. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

Estimated Amount of Purchase Contract Method*

\$1,000.00 - \$4,999.99 Verbal Quotations

Written Quotations or Written Request for Proposals

\$5,000.00 - \$19,999.99 Written Quotations or Written Request for Proposals

Estimated Amount of Public Work Contract Method

\$1,000.00 - \$4,999.99 Verbal Quotations

Written Quotations or Written Request for Proposals

\$5,000.00 - \$34,999.99 Written Quotations or

Written Request for Proposals

*Written includes physical paper, faxed or emailed quotes. A good faith effort shall be made to obtain three (3) 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. Documentation and an explanation are required whenever a contract is awarded to other than the lowest responsible offer. This documentation will include an explanation of how the award will receive savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

Documentation is required for each action taken in connection with the procurement.

2. Professional Services -

a. For all professional services with an estimated cost of \$20,000 or more the Town shall go through a formal request for proposal process. A scoring matrix shall be used to evaluate the proposals; the matrix must include cost with a minimum weight of 15% unless regulations specifically restrict a discussion on cost. The matrix shall have at least three categories and no more than ten categories with each category making up no more than 40% of the weight. Cost is excluded from this 40% cap. The scoring matrix shall be included with the request for proposal document given to potential respondents. At least three Town staff shall be included to score the proposals and Town staff shall make up the majority of any scoring committee. Scores shall be submitted in a sealed envelope at a time and place agreed upon by all committee members. If a committee member cannot be present, they may submit their score in a sealed envelope to the committee. A second round of scoring may be completed after interviews are held using this same process. All committee decisions shall be fully documented, and all documentation retained in accordance with the Town's record retention policy.

b. For all professional services with an estimated cost under \$20,000 the Town may go through a formal request for proposal or request for quote process. Quotes or a formal request for proposal are not required if the time and effort is expected to exceed the potential cost savings. If the request for proposal or request for quote process is not followed the department must document why this process was followed.

3. Energy Performance Contracts (EPC) - The Town shall follow all the same evaluation procedures for an energy performance contract that it would for professional services. In addition to those procedures the savings or revenue projections should be evaluated in detail by the Town Comptroller or in the absence of the Town Comptroller, the Town Comptroller or the Town Manager's designee. Once an EPC firm is selected, the EPC shall be evaluated by an independent attorney working on the Town's behalf; this may be internal or external Counsel.

4. Exceptions to Town Procurement Method:

a. Subject to Open Competitive Bidding. All the same exceptions exist for purchases not subject to open competitive bidding as exist for purchases subject to open competitive bidding. b. Large Vehicle and Truck Repairs. Large vehicle and truck repairs shall be exempt from the requirement to obtain three (3) proposals or quotations. However, a good faith effort shall be made to obtain at least two (2) proposals or quotations where feasible, taking into consideration the size of the vehicle, the difficulty (if applicable) in transporting the vehicle to obtain a proposal or quotation and the number of service providers within the Town of Wayne and/or Steuben, Schlyer or Yates Counties.

c. Goods or Services under \$1,000.00. 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 diminished contracts would be awarded based on favoritism.

d. Purchase of Surplus and Second-Hand Goods. Purchases of surplus and second hand goods may be made after a thorough analysis has been done that the second hand product will serve the Town's needs as well as a comparable new product and after an analysis of that product in the market place to ensure the Town is receiving the best value possible.

OTHER

1. This policy shall conform to all current and future laws enacted by New York State in relation to the procurement of goods and services.

2. This policy shall go into effect immediately upon adoption and shall be reviewed annually.

DISPOSAL OF SURPLUS PERSONAL PROPERTY

Purpose: To ensure the highest financial benefit to the Town when disposing of surplus personal property. Personal property is defined as all property other than real estate.

Policy: When an item is identified as surplus, it is no longer in use in the originating department and cannot be used elsewhere in the Town. A Town department head shall designate the item as surplus and then, in conjunction with the Town's Finance Officer, shall determine the most effective means of disposal. This surplus determination and disposal decision shall be subject to Board approval for all items expected to bring at least \$1,000 upon disposal. Items considered scrap are not subject to this policy.

Options for disposal:

- Auction: All surplus personal property will be sold by auction unless another method has been determined to have more financial benefit. It is noted that due to auction fees and the nature of certain surplus personal property public auction is not always the best method of disposal.

- Sale by Broker: At certain times, surplus personal property is specialized or not in demand all year round and therefore a broker may be used to obtain the highest financial benefit.

- Trade-in: If a Town asset is being replaced by a new version of that asset, the department head may determine that it is more beneficial to trade the surplus personal property in on the new version.

- Internal Sale: With consideration of auction fees and staff time used to set up external auctions, surplus personal property that is not expected to bring at least \$500 at auction may be auctioned internally if it appears that there may be interest by Town employees. All Town employees shall have equal opportunity to bid on the items.