

## **VILLAGE OF PAWLING PROCUREMENT POLICY**

**WHEREAS**, Pursuant to subsection 1 of Section 103 of the General Municipal Law, as separately amended by Chapters 453 and 454 of the laws of 2009, wherein amended by section 104-b, requires that procedures be established for purchasing goods and services that fall below the monetary bid limits and said procedures be approved by the governing board; GML §103 requires a formal bid for all purchases in excess of \$20,000 and public works contracts in excess of \$35,000; and goods and services which are not required by law to be procured pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of public moneys in the best interests of the people of the Village of Pawling ("Village"), 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 this end the following policies and procedures have been adopted;, and

**WHEREAS**, comments have been solicited from all officers in the Village involved in the procurement process;

**NOW, THEREFORE BE IT RESOLVED**, that the Village of Pawling does hereby adopt the following Procurement Policy, which shall apply to goods and services and public work expenditures as provided herein, which are not required by law to be publicly bid.

### **PROCUREMENT POLICY FOR THE VILLAGE OF PAWLING**

1. Before any solicitation of vendors occurs, every purchase or contract to be made must be initially determined to be a purchasing contract or a public works contract. The village engineer or the attorney for the village will be consulted when possible to advise if any given purchase or public work is exempt from competitive bidding requirements or for any reason is not subject to competitive bidding requirements. A public works contract may only be let by the mayor and Board of Trustees ("Board") or a delegate of the Board. A purchasing contract for goods or services exceeding \$20,000.00 may only be let by the Board of Trustees, if exempt from competitive bidding, as provided below in section "6" and in the general municipal law section 103, or after competitive bidding pursuant to section 103 of the general municipal law. Only persons authorized to make

purchases by section "7" below may commit the Village to a purchasing contract below \$20,000.00, as limited by this Procurement Policy. Once the initial determination is made by an authorized purchaser, 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 is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in the fiscal year. The following items are not subject to competitive bidding pursuant to Section 103 of the General Municipal Law: purchase contracts under \$20,000.00 and public works contracts under \$35,000.00; 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 second-hand purchases from another governmental entity.

The decision that a purchase or contract is not subject to competitive bidding will be documented in writing by an authorized purchaser named in section "7" below. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the items 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. All quotes for goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures that goods or services will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchasing contracts over \$20,000 and public works contracts over \$35,000; goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law; goods purchased from correctional institutions pursuant to Section 186 of the Correction Law; purchases under State contracts pursuant to Section 104 of the General Municipal Law; purchases under county contracts pursuant to Section 103(3) of the General Municipal Law; or purchases pursuant to subdivision 6 of this policy. (Electronic mail may be accepted for written quotes.)

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

<u>Estimated Annual Amount of Purchase Contract</u>	<u>Method</u>
\$500 - \$2,999	Verbal quotations
\$3,000 - \$19,999	Written/fax quotations or written request for proposals
<u>Estimated Annual Amount of Public Works Contract</u>	<u>Method</u>
\$500 - \$2,999	Verbal quotations
\$3,000 - \$14,999	Written/fax quotations
\$15,000 - \$34,999	Written/fax quotations or written request for proposals

A good faith effort shall be made by the authorized purchaser to obtain a minimum of three written proposals or quotations. If the purchaser is unable to obtain more than one proposal or quotation, the authorized purchaser will document the attempt made to obtain multiple proposals. In no event shall the failure to obtain multiple proposals be a bar to the procurement.

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

5. Documentation and an explanation are 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 savings and further the purposes of Section 104-b of the General Municipal Law. Such documentation shall be submitted to the village clerk who will maintain a file for such submissions.

6. 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 Village Board of Trustees, the solicitation of alternative proposals or quotations are not in the best interest of the Village. In the following circumstances it may not be in the best interest of the Village of Pawling 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 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 the above category the Board of Trustees shall take into consideration the following guidelines:

- a. whether the services are subject to State licensing, certification 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 or fiduciary 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, registered nurse or other medical provider; technical services of a professional engineer engaged to prepare plans, maps, estimates and other activities for which a professional engineering license is required in the State of New York; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; municipal financial consulting services; investment management services; printing services involving extensive writing, editing or art work; operation and management of municipally owned property and facilities, including water and sewer systems; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of pre-packaged software. ("Additional Services" provided by water and sewer facility operators pursuant to a current operator contract with the Village shall not require competitive bidding procedures if the additional services to be provided are not predominant over the basic services described in the operating contract.)

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 alternative proposals may threaten the life, health, safety or welfare of the residents of the Village. This section does not preclude alternate proposals if time permits. Prior approval of emergency purchases by the Board of Trustees is not required under this subsection "b". Prior approval of emergency purchases by the mayor or any

member of the Board by telephone or electronic messaging is required with the exception of emergency purchases by the mayor or any member of the Board. Documentation concerning such emergency purchasing shall be submitted to the village clerk and provided to the Board and shall be the basis for the approval of payment of the charges if approved by the Board.

c. Purchases of surplus and second-hand goods from any source. If alternate proposals are required, the Village is precluded from purchasing surplus and second-hand 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.

d. Goods and services under \$500. The time and documentation required to purchase goods and services through this policy may be more costly than the item itself and would therefore not be in the best interests of the taxpayers. In addition, it is not likely that such *de minimis* contracts would be awarded based on favoritism.

e. Sole Source. In cases where a reasonably diligent and documented search discloses that a good, service or specialized equipment is available from only one vendor, or is so unique or specialized, or in cases where there is common knowledge of the existence of a monopolistic situation for a particular good or service being sought, such good or service may be purchased from a single identified vendor without competitive bidding or solicitation of quotations. The requesting department must complete and submit a Sole Source Justification form with the Board of Trustees. Determination of sole source status shall be at the discretion of the Board of Trustees.

7. Individuals authorized to make purchases as limited by this Procurement Policy are:

Mayor Robert Liffland  
Trustee John Burweger  
Trustee Stan Mersand  
Trustee Brian Griffin  
Trustee Daniel Peters  
Village Clerk Jennifer Osborn  
Village Treasurer Elizabeth Shedd



Working Supervisor James Greges  
Village Justice Taren Cummings and  
Village Court Clerk Veronica Daniels.

8. For a subcontractor who is contracted by a contractor for a public work contract with the Village, the contractor must provide proofs of all the subcontractor's insurances, workers compensation proof of coverage, prevailing wage schedules, and certified payrolls to the Village in certified form in the manner required by Articles 8 and 9 of the labor law of the State of New York and delegated by the Board.
9. The awarded contractor must provide proof of insurance coverage, including workers compensation coverage, prevailing wage schedules and certified payrolls.
10. All public work must be warranted in writing for a specified time contained in the contract.
11. All public work must be inspected by the Village inspectors prior to acceptance of the work by the Village, with a full written punch list of items that have been satisfactorily completed before the Village accepts the work and releases the surety; contractors shall acknowledge in writing punch lists of incomplete work.
12. All public work contracts shall require contractors and subcontractors to comply with all applicable federal and state laws including I-9, W-2, F1099 compliance.
13. The Board may require in any public work contract that security for the performance of the public work contract and satisfactory completion thereof, maintenance thereof, and payment by the contractor of suppliers and subcontractors may be by irrevocable standby letter of credit rather than a surety bond.
14. Standardization. Where the Village has determined that it is required for the health, safety or welfare of the people of the Village, or for the effectiveness and efficiency of Village operations, standardization of supplies or equipment with existing supplies or equipment, or with supplies or equipment needed for inter-municipal task forces or partnerships, is

permitted and the specifications may limit the purchase to a single brand or trade name. Competitive solicitations are still required even though product pool is limited. The factors that shall be considered in determining to standardize on a single brand or trade name include:

- ☐ Repair and maintenance costs would be minimized.
- ☐ User personnel training would be facilitated.
- ☐ Supplies or spare parts would be significantly reduced.
- ☐ Modifications to existing equipment would be minimized or made unnecessary.
- ☐ Training requirements for repair and maintenance personnel would be significantly reduced or eliminated.
- ☐ Proper operation of a function or program requires single brand or trade name supplies or equipment to be compatible with existing supplies or equipment.
- ☐ Overall purchase or operational costs would be minimized.

Standardization of Purchases. With respect to the above factors considered for standardization, the resolution shall contain a full explanation of its reason for its adoption. The mayor shall review and approve any such resolution prior to its submittal to the Board.

15. Authorized persons shall determine if any contract for goods and services or public work may be subject to Minority and Women Business Enterprise regulation and the Wicks Law (General Municipal Law §101 and the Village will comply with applicable requirements of each.
16. All requests for quotes, qualifications, proposals and bids for a procurement contract shall designate a person employed by the Village who may be contacted by vendors in relation to such request, as provided by Finance Law §139-j(2)(a).
17. The mayor may designate standard contract forms to be used for vendor and consultant services.
18. Best Value. Pursuant to General Municipal Law §103(1) purchase contracts and public work contracts (except those subject to NYS Labor Law Article 8) may be awarded on the basis of "best value" to the offeror that optimizes quality, cost and efficiency among responsive and responsible offerors. Best Value solicitations shall

prescribe the minimum specifications and requirements that must be met in order to be considered responsive and shall describe and disclose the general manner in which the evaluation and selection shall be conducted. The basis of award of the solicitation shall identify the relative importance and/or weight of cost and the overall technical criteria to be considered by a procuring agency in its determination of best value. The evaluation may also identify a quantitative factor for small businesses or certified minority-or-women-owned businesses as defined in Executive Law §300(1), (7), (15) and (20). The basis of award shall reflect, wherever possible, objective and quantifiable analysis. Documentation on the procurement record shall, where practicable, include a quantification of the application of the evaluation criteria to the rating of proposals and the evaluation results, or, where not practicable, such other justification which demonstrates that best value will be achieved.

Contracts for goods and services and public works should contain appropriate provision for reasonable attorneys fees and costs of other professional consultants and court costs incurred by the Village to be reimbursed by the other party to the contract in any action by the Village to enforce the terms of the contract against the other party(ies), where such provision may be negotiated into the contract or imposed by the specifications.

19. The Board will schedule a meeting of employees of the village annually to be oriented to these policies.
20. This Policy shall go into effect upon its adoption and will be reviewed annually.

Adopted:	February 3, 1992
Reviewed and amended:	April 2, 2001
Reviewed:	April 4, 2005, April 3, 2006, April 9, 2007 and April 7, 2008
Reviewed and amended:	December 7, 2009
Reviewed:	December 6, 2010
Reviewed and amended:	December 5, 2011, December 3, 2012 and December 2, 2013
Reviewed and amended:	January 20, 2015