

Reviewed By
Office of Town Agency
TMS
[Signature]

WHEREAS, General Municipal Law, Section 104-b, requires every town to adopt internal policies and procedures governing all procurement of goods and services not subject to the bidding requirements of General Municipal Law, Section 103, or any other law; and

WHEREAS, the Town of Oyster Bay, both by Ordinance and by departmental policies and procedures, has a long established framework for the procurement of goods and services; and

WHEREAS, it is desirable to have said policies and procedures embodied in one document; and

WHEREAS, comments have been solicited from those officers of the Town involved with procurement; and

WHEREAS, the Procurement Policies and Procedures of the Town of Oyster Bay were most recently adopted by the Town Board on May 26, 2015, by Resolution No. 329-2015; and

WHEREAS, it is the practice of the Town Board to review the procurement policies and procedures from time to time as the Town Board deems appropriate or necessary, and New York State General Municipal Law Section 104b(4), requires every municipality to annually review its procurement policies and procedures,

NOW, THEREFORE, BE IT RESOLVED, That the Town of Oyster Bay does hereby adopt the following procurement policies and procedures:

Guideline 1. Every prospective purchase of supplies or equipment, every public work and service contract, and every equipment lease shall be evaluated to determine the applicability of General Municipal Law, Sections 103 and 104(b), and the herein procurement policy. The Department of General Services, Division of Purchasing (hereinafter referred to as "Purchaser") 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 town 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.

Guideline 2. All purchases of supplies or equipment which will exceed \$20,000.00 in the fiscal year, and public work and service contracts over \$35,000.00, shall be formally bid pursuant to General Municipal Law, Section 103.

Guideline 3(a). All estimated purchases of supplies or equipment:

- of \$10,000.00 or more, up to and including \$20,000.00, require quotations from at least three (3) vendors.

- of \$3,500.00 or more, but less than \$10,000.00, require quotations from at least two (2) vendors.

- of less than \$3,500.00 require a quotation from at least one (1) vendor.

Guideline 3(b). All estimated public work and service contracts:

- of \$15,000.00 or more, up to and including \$35,000.00, require quotations from at least three (3) contractors.

- of \$7,500.00 or more, but less than \$15,000.00, require quotations from at least two (2) contractors.

- of less than \$7,500.00 require a quotation from at least one (1) contractor.

Any written request for proposals or quotations shall describe the desired goods, quantity and the particulars of delivery. The Purchaser shall compile a list of all vendors from whom written/fax/oral/electronic quotations have been requested, and the written/fax/oral/electronic quotations offered.

All information gathered in complying with the procedures of this Guideline shall be preserved and filed with the documentation supporting the subsequent purchase or public work and service contracts.

Guideline 3(c). Individual equipment leases, the annual costs of which are estimated to be:

- in excess of \$35,000.00 or more, require a formal bid, which bid shall be conducted consistent with the provisions of General Municipal Law, Section 103.

- \$15,000.00 or more, up to and including \$35,000.00, require quotations from at least three (3) vendors.

- \$7,500.00 or more, but less than \$15,000.00, require quotations from at least two (2) vendors.

- less than \$7,500.00, require a quotation from at least one (1) vendor.

Leases of multiple pieces of equipment, intended for use in one project, shall, for the purpose of this Guideline, be considered an individual lease.

Real property leases, due to their unique nature, are specifically excluded from this Guideline.

Guideline 4. The lowest responsible vendor or contractor meeting specifications shall be awarded the purchase, public work or service contract. If a vendor or contractor is not deemed responsible or does not meet specifications, facts supporting that judgment shall also be

documented and filed with the record supporting the procurement.

Guideline 5. Except when directed by the Town Board, no solicitation or written proposals or quotations shall be required under the following circumstances:

- a. Emergencies;
- b. Sole source situations, including, but not limited to, the procurement of performers, artists, presenters, arts organizations, etc.;
- c. Goods procured from or services provided by agencies for the blind or severely handicapped;
- d. Goods procured from correctional facilities;
- e. Goods procured from another governmental agency;
- *f. Media advertising and public notices; and
- g. Goods and services procured through existing Federal, State or County contracts or contracts let by any political subdivision or district therein, which contracts have been made available for use by other governmental entities and which have been let to the lowest responsible bidder or on the basis of best value in a manner consistent with New York State Municipal Law Section 103.

Guideline 6. From time to time, Town Departments retain individuals or companies to provide various professional services and certain other services requiring a special or technical skill, training or expertise. The service provider must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment and integrity. The qualifications of the service provider is of prime importance to the successful and expedient completion of any project and are not necessarily found in the individual or company that offers the lowest price. For that reason, professional services and certain other services are not covered by the competitive bidding requirements of General Municipal Law, Section 103, and may be exempted from coverage under General Municipal Law, Section 104-b.

Despite the foregoing, this Town Board recognizes that the establishment of formal policies and procedures would assist in ensuring that the most prudent and economical use is made of public monies, thus facilitating the acquisition of services of the best possible quality at the most beneficial cost. †

For the foregoing reasons, the following Qualification Based Selection (QBS) procedures shall be utilized as follows:

The Department shall prepare a written statement describing the proposed project. Said statement shall include information regarding the problem to be solved or the goals which must be achieved, the time frame of the project; the approximate budget of the project, and any other relevant information.

The Department shall prepare a list of criteria to be used in evaluating

submissions of qualifications. The criteria shall include, but not be limited to:

1. Magnitude, scope, and complexity of the services to be rendered;
2. Experience of the firm in assignments of similar size, scope, and complexity;
3. Special knowledge relevant to project;
4. Special equipment or facilities relevant to project;
5. Size, staffing, resources, and financial capability of the firm vs. the size of the assignment;
6. Knowledge and experience with Town facility(ies) and programs involved in the assignment;
7. Past performance with the department;
8. Time constraints and deliverability of service; and
9. Firm's current workload with the Town.

It is expressly acknowledged that the quality of the services to be rendered is of paramount importance. However, it is further expressly acknowledged that the cost of the services to be rendered is a substantial concern. Therefore, the Department shall, in every instance, justify to the Town Board, as hereinafter set forth, the cost of the services to be rendered.

Architectural, Engineering and Surveying firms will be invited to file a Federal Form SF 330 with the Town, which form will remain on file for a period of one year. Said firm will be required to provide updates on an annual basis. When such services are required, the Department shall send a Request for Proposals (RFP) to at least three (3) firms which have a current Federal Form SF330 on file with the Town. The RFP shall contain the project description, the criteria for evaluation, the date by which the firm must respond, and the name of a contact person in the Department. The Department shall obtain at least three (3) qualified proposals.

For all other services, the Department shall make every reasonable effort to compile and maintain a current list of persons or entities interested in performing professional services for the Town; and, utilizing such list, the Department shall obtain at least three (3) qualified proposals for any and all such services to be rendered.

The Department, at its option, may advertise the RFP in a newspaper of general

circulation, consistent with the procedures for advertising a public bid under General Municipal Law Section 103. Such publication shall satisfy the foregoing provisions of this Procurement Policy relating to the number of proposals required, regardless of how many proposals are actually received by the Department.

The Department will review all submitted material and rank the firms in order of qualifications for this project. The basis on which the firms were ranked shall be documented in writing. At its discretion, the Department may elect to interview each firm, make visits to each firm, or inspect prior work done by each firm. The Department shall notify the three highest ranked firms of their standing and notify the remaining firms that they will not be chosen for this project.

The Department shall then initiate negotiations with the highest qualified firm. If a satisfactory agreement cannot be negotiated with the firm considered the most qualified, at a fee determined to be fair and reasonable, then negotiations with said firm shall be terminated and negotiations then undertaken with the second most qualified firm. Failing accord with the second most qualified firm, negotiations shall terminate with it and then be undertaken with the third most qualified firm.

If acceptable terms cannot be reached with the three highest ranked firms, the selection process shall be terminated and the project shall be re-evaluated by the Town.

If acceptable terms are reached with one of the three highest ranked firms, the Department shall, in writing, notify the Town Board thereof, and make an appropriate recommendation in connection therewith, including justification for the cost of the services to be rendered.

All agreements for professional services shall clearly state the agreement term, and the number and length of extensions, if any. The Department shall advise the Town Board of this information prior to the approval of any agreement.

When exercising any extension option, the Department shall advise the Town Board of the agreement terms exercised to date, the provision currently being exercised, and whether there are any remaining extensions.

No Department may recommend authorization of any task under a professional services agreement unless it is reasonably believed that said task will be completed prior to the expiration of the agreement.

If the Town, through its Comptroller, reasonably estimates that the value of services to be provided, either by any one service provider, or in connection with any one particular area of service, regardless of the number of service providers involved, will not exceed \$10,000.00 in a calendar year, then the foregoing provisions shall not apply, and a formal procurement procedure shall not be required. In every instance, the Department shall endeavor to make a fiscally prudent selection.

Guideline 7. A good faith effort shall be made to obtain the required number of proposals or quotations, to be documented in writing. If the Purchaser is unable to obtain the required number of proposals or quotations, the Purchaser shall forward to the Town Attorney documentation regarding the attempt to obtain proposals or quotations, including the number of service providers in the field, the number of Requests for Proposals sent out and the number of responses received. If, in the opinion of the Town Attorney, the Purchaser has made an adequate attempt to obtain proposals or quotations, and was not able to obtain the requisite number of same, then the Town Attorney shall issue a written determination that the Purchaser has complied with the provisions of this Procurement Policy. In the event that the Town Attorney determines that the Purchaser has not made an adequate attempt to obtain proposals or quotations, the Purchaser shall be directed to make a further attempt to obtain same. In no event shall the inability to obtain the proposals or quotations be a bar to the procurement.

Guideline 8. The commissioner, director, supervisor or department head of each department or agency of the Town Oyster Bay responsible for procurement of services, supplies, equipment, or construction obtained with Federal, State or Local funds, or their designee, shall review all proposed procurement actions to avoid the purchase of unnecessary or duplicative items. Such reviews shall consider consolidation or breaking out to obtain a more economical purchase. When determined appropriate by the commissioner, director, supervisor, department head, or their designee, an analysis should be made of lease versus purchase alternatives and any other analysis to determine the most economical approach.

Guideline 9. No employee, officer or agent of the Town of Oyster Bay shall participate directly or indirectly in the selection or in the award or administration of any contract if a conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for award is held by:

1. An employee, officer or agent involved in making the award;
2. His/her relative including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepsister, stepbrother, half-brother, or half-sister;
3. His/her partner; or
4. An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

Guideline 10. Any actual or prospective contractor may protest the solicitation or award of a contract for serious violations of the principles of this Policy. Any protest against solicitations must be received before the due date for receipt of bids or proposals, and any protest against the award of a contract must be received within ten calendar days after contract award, or the protest will not be considered. All bid protests shall be in writing, submitted to Purchasing Agent or the Commissioner of the Department of General Services. The Purchasing Agent or the Commissioner of the Department of General Services may, at his/her discretion, suspend the procurement pending resolution of the protest, if warranted by the facts presented.

Guideline 11. These policies and procedures shall be reviewed from time to time as the Town Board deems appropriate or necessary, and shall be reviewed at least annually by the Town Board. In addition, from time to time, upon request of the Town Board, each Department shall provide, in writing, a summary accounting of the essential activity arising out of these policies and procedures.

Guideline 12. In accordance with the requirements of General Municipal Law Section 104-b(2)(f), the following individual is responsible for the purchase of goods and services:

Eric Tuman – Commissioner, Department of General Services

Insofar as these policies and procedures are inconsistent with any existing Town policy or procedure, the provisions of this Resolution shall be controlling.

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The foregoing resolution was declared adopted after a poll of the members of the Board; the vote being recorded as follows:

Supervisor Venditto	Aye
Councilman Muscarella	Aye
Councilman Macagnone	Aye
Councilman Coschignano	Aye
Councilman Pinto	Aye
Councilwoman Alesia	Aye
Councilwoman Johnson	Aye

cc: Supervisor
Town Attorney
Comptroller (2)
General Services