

Executive Summary and Report:

In formalizing the Village of Mamaroneck's purchasing policy to be established under the New York State General Municipal Law, the Village Manager has recommended, and the Mayor and the Board of Trustees find that certain controls are necessary to ensure the efficient, effective and accountable operation of government from an expenditure standpoint.

Competition for purchases and services also drives down expenses for governments, and in turn taxpayers. All departments and employees should continuously make an extra effort to find suppliers and contractors to increase competition and obtain the most competitive price and value.

As a municipal entity, the Village of Mamaroneck and its employees should make every effort to ensure that purchases by the Village are accompanied by a tax-exempt form.

The following policy was prepared by the Village Administration after performing an analysis of purchases and expenditures made by the Village on a regular basis. This is the latest revision of the procurement policy for the Village of Mamaroneck.

PROCUREMENT AND PURCHASING POLICY

1. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works or service contract. 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 total aggregate amount to be spent on the item of supply or service is subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a Fiscal Year.
2. The following items are not subject to competitive bidding pursuant to Section 103 of the NY State General Municipal Law:
 - a. purchase contracts under \$20,000, or as may be further amended pursuant to GML §103 and
 - b. public works contracts under \$35,000, or as may be further amended pursuant to GML §103;
 - c. emergency purchases pursuant to GML §103(4);
 - d. certain municipal hospital purchases pursuant to GML §103(8) ;
 - e. goods purchased from NYSPDP or NYSID, or their successors, as defined in State Finance Law §162 & §163;
 - f. goods purchased from correctional institutions pursuant to Correction Law §186;
 - g. purchases under New York State, Westchester County contracts, or contracts from other political subdivisions within the United States if such contract was let in a manner that constituted public bidding and made available for use by other governmental entities or as may further be amended pursuant to GML §104;
 - h. surplus and second-hand purchases from another governmental entity pursuant to §103(6);
 - i. and professional services contracts.

****Note:** All vehicle purchases require approval by the Board of Trustees.

The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written quotes from vendors, a memo from the purchaser explaining the decision, 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.

3. All goods and services will be secured by use of written requests for proposals, written quotations, or any other method that assures goods will be purchased at the lowest price, except in the following circumstances:

- a. purchase contracts over \$20,000 and public works contracts over \$35,000, or as may be further amended by GML §103;
- b. goods purchased from NYSPDP or NYSID, or their successors, as defined in State Finance Law §162 & §163;
- c. goods purchased from correctional institutions pursuant to Sec. 186 of the Correction Law;
- d. purchases under State contracts pursuant to Section 104 of the General Municipal Law;
- e. purchases under County contracts pursuant to Section 103(3) of the General Municipal Law;
- f. purchases under contracts from other political subdivisions within the United States pursuant to Section 103(16) of the General Municipal Law.
- g. or purchases pursuant to Subdivision 9 of this policy.

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

Note: Total aggregate purchases over the course of a Fiscal Year should be considered when determining whether an item requires written quotes, or is subject to public bid.

<u>Estimated Amount of Purchase Contract</u>	<u>Method</u>
\$1,500.00 - \$4,999.99	At least 2 written/faxed/e-mail quotes; memo or price quotes to be documented.
\$5,000.00 - \$19,999.99	At least 3 written/faxed/e-mailed quotes; memo or price quotes to be documented.
\$20,000.00 and above	Subject to publicly advertised bid. Must be circulated to at least 3 companies. Contract must be approved by the Mayor and Board of Trustees. A purchase order and/or contract must be signed by the

Village Manager after Board approval is granted, prior to order being made.

Estimated Amount of Public Works/Service

Contract

\$1,500.00 - \$4,999.99

\$5,000.00 - \$34,999.99

\$35,000.00 and above

Method

At least 2 written/faxed/e-mail quotes; memo or price to be documented.

At least 3 written/faxed/e-mailed quotes; memo or price quotes documents.

Subject to publicly advertised Bid. Must be circulated to at least 3 companies. Contract must be approved by the Board of Trustees. A formal contract must be signed by the Village Manager after Board approval is granted.

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 quotes, purchaser will document such attempts. In no event shall failure of a vendor to submit a quote be a bar to the procurement.

Purchases of items made pursuant to Section 2(a) – 2(g), or any other contract issued by a governmental agency in accordance with state statute, shall not be subject to the quotes or competitive requirements in Section 3 above but shall be subject to the approval requirements of such section. Purchases of items made through these contracts must be approved by the Village Manager.

The Village extends a 5% preference on quotes to local business enterprises for supplies, equipment and nonprofessional services from \$1,500 to \$19,999.

5. Green Purchasing and Procurement of Services

Recognizing the responsibility of local governments to take effective measures to reduce or limit the environmental impacts of their operations and conserve resources, the Village adopts the following:

- a. Energy Use: Priority shall be given to products and services which consume the least amount of energy in their manufacture, use and disposal. Where possible, Energy Star qualification and/or an equivalent elevated measure of efficiency should be a minimum requirement in any energy consuming equipment, device, vehicle or appliance purchase.
- b. Sustainability of Materials: Priority shall be given to products and services which incorporate products which are made from sustainable materials, and/or contain a significant level of recycled or reprocessed material and which are manufactured locally, and/or which are packaged to reduce transportation costs.

- c. Packaging: Priority shall be given to products which are minimally packaged using recycled, recyclable or biodegradable packaging materials.
- d. Environmental Impacts: Priority shall be given to products which reduce impacts on the environment during manufacture, use or disposal.
- e. Health Impacts: Priority shall be given to products and services which reduce or eliminate health risks to employees and/or citizens in their manufacture, use or disposal. In particular, products that contain Chlorine, PVC, and/or emit unhealthy levels of chemical emissions during use should be avoided.
- f. Bid documents and requests for proposals shall be drafted to encourage environmentally preferable purchases and service by incorporating bidding specifications that procure goods and services with a reduced environmental impact where appropriate.
- g. Nothing in this policy shall be construed as requiring the procurement of products or services that do not perform adequately for the intended use or not available at a reasonable price in a reasonable period.

6. A local business is defined as "a business firm with fixed offices or distribution points located within the Village of Mamaroneck boundaries, with a Village of Mamaroneck business street address."

A Purchase Order shall be required for each purchase more than \$1,500 or as may be further required by a vendor.

For Purchase Orders both Department Head and Village Manager approval are required.

7. Documentation, including but not limited to written quotes and memoranda, is required of each action taken in connection with each procurement. Such documentation shall be kept in accordance with the Village's records and retention policy.

8. Documentation and an explanation is required whenever a contract is not awarded to other than the lowest response. This documentation could include an explanation of how the award will achieve savings or why the offer was not acceptable. Such determination shall be made by the purchaser and may not be challenged under any circumstances.

9. As provided in New York State Law, in order to comply with terms calling for timely remittances to vendors upon the delivery of materials or supplies or the rendering of services to the Village for the conduct of its affairs, payments for items such as utilities, postage or other items requiring payment, as further identified in NYS Village Law §5-524(6), may be made in advance of a Board of Trustees audit, provided such payments are duly approved by a department head, the Village Manager and the Village Treasurer. Such payments made in advance of a Board of Trustees audit shall be presented to the Board of Trustees for ratification. Each department shall take advantage of discounts where available and process those payments in a timely manner to ensure compliance with vendor terms.

10. **Required Statements.** The following statements must accompany the submission of any request for proposal solicited by the Village of Mamaroneck.

- a. **The Iran Divestment Act.** Every bid submission must contain the following statement subscribed and affirmed by the bidder as true under the penalties of perjury:

By submission of this offer, each offeror and each person signing on behalf of any offeror certifies, and in the case of a joint offer each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each offeror is not on the list created pursuant State Finance Law § 165-a(3)(b).

The Village of Mamaroneck may award an offer to an offeror who cannot make the statement of non-investment on a case-by-case basis if:

- The investment activities in Iran were made before the effective date of this section, the investment activities in Iran have not been expanded or renewed after the effective date of this section, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or
- The Village of Mamaroneck makes a determination that the goods or services are necessary for the Village of Mamaroneck to perform its functions and that, absent such an exemption, the Village would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

No contract may be awarded to any persons determined to be engaged in investment activities in Iran as indicated by New York State Office of General Services.

- b. **Statement of Non-Collusion.** Every bid submission must contain the following statement subscribed and affirmed by the offeror as true under the penalties of perjury:

By submission of this offer, each offeror and each person signing on behalf of any offeror certifies, and in the case of joint offer each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:

- The prices in this offer have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of

restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

- Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening, directly or indirectly, to any other offeror or to any competitor; and
- No attempt has been made or will be made by the offeror to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

11. 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 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 Village of Mamaroneck 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, such as architects, attorneys, insurance coverages, engineers and other professional consultants. The individual or company must be chosen based on qualifications showing 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 circumstances where the cost of professional services is estimated to exceed \$10,000 in a fiscal year, a Request for Proposal process may be conducted which will give the Village the flexibility to retain services based on a firm's or individual's expertise, training and experience and not limited solely to costs.

In determining whether a service fits into this category the Board of Trustees 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 must be purchased immediately and a delay 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. Emergency situation must be documented.
 - c. Purchases of surplus and second-hand goods from any source. If alternate proposals are required, this limits the sources through which the Village can purchase goods. For example, if quotes are required, the Village would be precluded from purchasing items at auction. Additionally, it is not appropriate to procure used or second-hand goods on a quote comparison basis as a lower price is typically indicative of poorer quality. For example, if the Village were desirous of purchasing a used vehicle, a lower price would indicate that it is likely in poor condition, would require enhanced maintenance and have a reduced expected useful life whereas a higher price would indicate that the vehicle is well maintained and will have a longer service life.
 - d. Individual goods or services under \$1,500. 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 de minimus contracts would be awarded based on favoritism. However, it is recommended whenever possible that the Village try to obtain three (3) comparison bids/prices or purchase off of State or County contracts to realize the best price. If the aggregate amount is expected to exceed \$20,000 for any one vendor during a fiscal year, a public bid is required unless such purchase is being made in accordance with Sections 3(b) through 3(f) above.
12. Authorized Officials responsible for the use of the Village of Mamaroneck credit card purchases will accept responsibility that purchases are made in accordance with the Village of Mamaroneck Procurement Policy and Procedures and the Village's Credit Card Usage Policy.
- a. The Board of Trustees may authorize the certain officials/employees of the Village of Mamaroneck be issued credit cards, under a Village master credit card account, for purpose of facilitating departmental purchases. These credit cards are administered under the provisions of the Village's Procurement Policy. Credit cards shall only be used for business related expenses.
 - b. No department shall request a "store" credit card account under the Village of Mamaroneck unless previously authorized by the Village Manager. No additional bank credit lines or accounts will be established without authorization of the Village Manager.
 - c. This section does not pertain to vendor accounts established for the purpose of "buying on account" (i.e. A House Account) with an invoice subsequently sent to

the Village for payment. These accounts are established on an as needed basis through the Clerk – Treasurer’s office.

- i. The following officials/employees are authorized to have credit cards under a Village master credit account:

AGGREGATE TOTAL \$50,000

1. Village Manager Jerry Barberio - \$5,000
2. Assistant Village Manager Daniel J. Sarnoff - \$5,000
3. Police Chief Sandra DiRuzza - \$5,000
4. Recreation Superintendent Jason Pinto – \$5,000
5. Village Clerk/Treasurer Agostino A. Fusco – Aggregate total less any amounts issued as noted in items 1-4.

CHANGE ORDER POLICY

1. No important change may be made which so varies the original plan or is of such importance as to constitute a new undertaking (Opinion of State Comptroller #60-505).
2. The Village Manager may approve change orders to purchase or public works contracts involving an expenditure of less than \$50,000.
3. The Board of Trustees must approve change orders to purchase or public works contracts involving an expenditure of \$50,000 or greater
4. Notwithstanding provisions of 2 & 3 above, in the case of a public emergency arising out of an accident or other unforeseen occurrence or condition that affects public buildings, public property, or the life, health, safety, or property of the inhabitants of within the Village and requires immediate action, the Village Manager may approve change orders in excess of the limits identified in 2 & 3 above.

CREDIT CARD POLICY

1. Purpose

- 1.1 To document the purchasing and internal control practices of the Village of Mamaroneck with respect to the use of a credit card and to identify the roles and responsibilities of the individuals involved in purchasing, the Village is establishing guidelines for purchasing goods and services by means of a Village of Mamaroneck credit card in accordance with New York State General Municipal Law (GML) Section 104(b) and the Village of Mamaroneck Procurement and Purchasing Policy. The use of a credit card would only be

permitted in situations where a vendor will not accept a check or purchase order in payment for goods or services, or in emergency situations.

- 1.2 For the purpose of this policy, the term “Village Manager” refers to the Village Manager as appointed by the Board of Trustees or such other designee authorized by the Village Manager to act on his/her behalf.

2. Policy

- 2.1 The credit card issued shall be with one of the authorized Village depositories.
- 2.2 All purchases will be made in accordance with GML Section 103 and the Village of Mamaroneck Procurement and Purchasing Policy.
- 2.3 The Village Manager shall maintain custody of the credit card except that the Police Chief shall maintain possession of his/her village-issued credit card. A Department Head seeking to use the credit card shall apply to the Village Manager by submitting documentation to justify the need for the use of the credit card and shall include estimate of anticipated purchase amount. Once permission is granted by the Village Manager, the credit card will be released by the Village Manager to the Department Head for the purchase of only the goods and/or services approved. The Department Head will be fully responsible and liable for the use of the card including in circumstances where a subordinate is making the purchase. The Department Head will return the card to the Village Manager as soon as the transaction is concluded.

The card holder is responsible for managing any returns or exchanges and ensuring that proper credit is received for returned merchandise. Card holders should review all monthly statements to ensure accuracy.

It is the card holder’s responsibility to retain all receipts and documentation, including the documentation required for demonstration with the Village Procurement Policy. Receipts should be submitted to Clerk Treasurer within one week of purchase date.

The credit card will be reconciled monthly by the Clerk Treasurer for unauthorized charges and/or discrepancies.

The Village of Mamaroneck is exempt from sales tax, and as such, no sales tax should be included with the cost of any purchase. Please be sure to have a copy of the Village’s tax-exempt letter with you when you are making a purchase.

- 2.4 The credit card is only to be used in the following situations:
 - a. Emergencies that are of a public safety nature.
 - b. Only if a purchase order cannot be issued or cannot be paid through the normal accounts payable process.

- c. Charges shall not exceed \$500 without the approval from the Village Manager.
- d. Conference/Training and lodging if needed.

- 2.5 The credit card may not be used for personal purchase of any kind. Use of credit cards for personal purchases or expenses with the intention of reimbursing the Village is prohibited and will result in disciplinary action.

Misuse of a Village credit card by an authorized employee may result in loss of the credit card and/or disciplinary action against the employee.

Lack of proper documentation or authorizations will result in loss of credit card privileges and/or personal liability.

- 2.6 No cash advances are allowed using the credit card.
- 2.7 The credit card is not to be used to pay invoices or statements of any kind without the prior written approval of the Village Manager.
- 2.8 It is the responsibility of the card holder to immediately notify the Village Manager or his designee of any lost or stolen credit card.

These policies shall go into effect immediately upon adoption by the Board of Trustees and will be reviewed annually.