

Town of

Ramapo
Supervisor Christopher P. St. Lawrence



**TOWN OF RAMAPO
PROCUREMENT AND DISPOSITION
POLICIES AND PROCEDURES**

FEBRUARY 2023

TOWN BOARD

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**MONA MONTAL
DIRECTOR OF PURCHASING**

FOREWORD

On January 2, 1992, the Town of Ramapo adopted its first written purchasing policy. That document, although an improvement over the unwritten policies and procedures followed in the past, did not address the other side of the purchasing department, namely, the disposition (sale) of unneeded Town assets.

Revised purchasing policies including the policies and procedures for disposition of unneeded Town assets were adopted on February 10, 1995, and June 10, 2005.

A revised purchasing policy incorporating changes in the laws of New York State was adopted in February 2023.

General Municipal Law Section 104-b, which governs procurement policies and procedures, requires that the Town Board annually review its policies and procedures.

Mona Montal
Director of Purchasing
February 2023

**TOWN OF RAMAPO
PROCUREMENT AND DISPOSITION POLICIES AND PROCEDURES**

PROCUREMENT POLICIES AND PROCEDURES

This document sets forth the policies and procedures of the Town of Ramapo to meet the requirements of the General Municipal Law, Section 104-b.

ARTICLE 1- GENERAL PROVISIONS

1. Purpose

The purpose of this policy is to provide for the fair and equitable treatment of all persons involved in public purchasing by the Town of Ramapo, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

2. Application

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 interest of the taxpayers, 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, while simultaneously enabling the Town to perform its duties expeditiously.

3. Public Access to Procurement Information

Procurement information shall be a public record to the extent provided in the New York State Freedom of Information Law (Public Officers Law, sections 84-90), and shall be available to the public as provided in such statute.

ARTICLE 2- OFFICE OF THE PURCHASING DEPARTMENT

1. Authority and Duties

A. *Principal public purchasing official.* Except as otherwise provided herein, the Director of Purchasing shall serve as the principal purchasing official for the Town of Ramapo, and shall be responsible for the procurement of supplies, services, equipment, and public works contracts in accordance with this policy, as well as the management and disposition of supplies, services and equipment.

- B. *Duties.* In accordance with this policy the Director of Purchasing shall:
- i. Procure or supervise the procurement of all supplies, services, materials and equipment, as well as public works contracts needed by the Town of Ramapo; and
 - ii. Sell, trade, and/or otherwise dispose of surplus supplies belonging to the Town of Ramapo.

C. *Operational Procedures.* Consistent with this policy the Director of Purchasing may adopt operational procedures relating to the execution of its duties.

2. Delegation to Other Town Officials

With the approval of the Town Board, the Director of Purchasing may delegate authority to purchase certain supplies, services, equipment, or construction items to other Town officials if such delegation is deemed necessary for the effective procurement of those items.

ARTICLE 3- SOURCE SELECTION AND CONTRACT FORMATION

1. Competitive Sealed Bidding

A. *Conditions for Use.* All contracts of the Town of Ramapo shall be awarded by competitive sealed bidding except for the following:

- i. Requests for Proposals pursuant to Article 3, Section 2 hereof and 1988 Opns. St. Comp. No. 88-35;
- ii. County contracts pursuant to General Municipal Law Section 103(3);
- iii. Emergencies pursuant to General Municipal Law Section 103(4);
- iv. Surplus and second-hand items from other governments pursuant to General Municipal Law Section 103(6);
- v. State contracts pursuant to General Municipal Law Section 104;
- vi. Items purchased from agencies for the blind or severely handicapped pursuant to State Finance Law Section 162;
- vii. Articles manufactured in correctional institutions pursuant to Correctional Law Section 186;
- viii. Sole source items pursuant to 1988 Opns. St. Comp. No. 88-35;
- ix. Municipal cooperation agreements pursuant to Opns. St. Comp. No. 88-12;
- x. Professional services pursuant to Article 3, Section 3 hereunder and 1992 Opns. St. Comp. No. 92-33;
- xi. Small purchases pursuant to Article 3, Section 4;
- xii. Any other types of procurement excepted herein.

B. *Request for Bid.* A request for bid shall be issued and shall include specifications, and all contractual terms and conditions applicable to the procurement for purchase contracts that are \$20,000 or more and for public work contracts that are \$35,000 or more, or the maximum amount pursuant to the General Municipal Law

C. *Public Notice.* Adequate public notice of the bid shall be given, not less than fourteen (14) calendar days prior to the date set forth therein for the opening of bids, unless it is determined by the Director of Purchasing that public notice of less than fourteen (14) days is adequate. In no instance shall the public notice be less than five (5) business days. Such notice shall include publication in the official newspaper(s) as designated by the Town Board and/or publication on the Hudson Valley Municipal Purchasing Group website, also referred to as “BidNet”. The public notice shall state the place, date and time of the bid opening.

D. *Bid Opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the request for bids. The amount of each bid, and such other relevant information as the Director of Purchasing deems appropriate, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection in accordance with Article I Section 3 (public access to procurement information).

E. *Bid Acceptance and Bid Evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based upon the requirements set forth in the request for bid, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs.

F. *Correction or Withdrawal of Bids; Cancellation of Awards.* Correction or withdrawal of inadvertently erroneous bids before bid opening or cancellation of awards or contracts based upon such mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice received by the Town Clerk’s Office prior to the time set for the bid opening. After bid opening corrections of bids shall not be permitted. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Town or fair competition shall be permitted. In lieu of bid correction, a bidder alleging a material mistake of fact may be permitted to withdraw his bid if:

- i. The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- ii. The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made. All decisions to permit correction or withdrawal of bids, or to cancel awards or contracts based upon bid

mistakes, shall be supported by written determination made by the Town Attorney.

G. *Award.* The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the request for bids and has been awarded the contract by resolution of the Town Board of the Town of Ramapo.

2. Competitive Sealed Proposals

A. *Conditions for use.* When the Director of Purchasing, after consultation with the Town Attorney, determines that the use of competitive sealed bidding is not required by law, a contract may be entered into by the use of the competitive sealed proposal method. This method is used when the price is not the sole factor for the award.

B. *Request for proposals.* Proposals shall be solicited through a request for proposal.

C. *Public Notice.* Adequate public notice of the request for proposal shall be given in the same manner as provided in Section 1C above.

D. *Receipt of Proposals.* No proposals shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation.

E. *Evaluation Factors.* The request for proposals shall state the importance of price and other evaluation factors.

F. *Award.* Award shall be made to the responsible offereor whose proposal is determined to offer the best value to the Town, taking into consideration price and the evaluation factors set forth in the request for proposals, and which has been awarded the contract by resolution of the Town Board of the Town of Ramapo.

3. Professional Services

A. *Authority.* Professional Services involve specialized skill, training, and expertise, use of professional judgment or discretion, and/or a high degree of creativity, and often involve a relationship of personal trust and confidence. They are not purchase contracts or contracts for public work, as those phrases are used in the bidding statutes, and therefore are not subject to the competitive bidding procedures. The individual or company may be chosen based on qualifications to include, but limited to, reliability, skill, education and training, experience, demonstrated effectiveness, judgment and integrity. These qualifications are not necessarily found in the individual or company that offers the lowest price.

Professional or technical services shall include, but not be limited to, the following: accounting, ambulance services, appraisal of real property, architectural services, court stenographer services, customized software programming services, engineering, fire protection, insurance coverage and/or broker services, instructors/teachers/training, investment advisory and/or management services, laboratory testing services, legal services, management services, marketing services, medical/dental services, pharmaceutical services, surveyors, and title services.

B. *Conditions for Use.* Except as provided under Article 3, Section 5 - Sole Source Procurement or Section 6 - Emergency Procurements, professional services shall be procured in accordance with this section.

C. *Statement of qualifications.* Persons engaged in providing the designated types of professional services may submit statements of qualifications or expressions of interest in providing such professional services. A using department requiring such professional services may specify a uniform format for statements of qualifications.

D. Award.

i. Purchases and contracts defined as Professional Services of \$15,000.00 or less may be awarded at the discretion of the Director of Purchasing and the department needing the service in consultation with the Town Attorney. All purchases and contracts may be encumbered by a purchase order, subject to the terms of the provider's service contract.

ii. Purchases and contracts defined as Professional Services of more than \$15,000.00 shall be awarded at the discretion of the Town Board. The Town Board shall have the option of determining that the issuing of a formal request for proposal would be beneficial to determine the best qualified provider and to insure that negotiation of compensation be fair and reasonable. In the event that a request for proposal is issued, adequate notice of the need for such services shall be given by the using department requiring the service through such request for proposal. Such requests for proposals shall describe the services required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.

E. *Discussions.* The head of the department needing the required professional services or a designee of such Department Head in consultation with the Director of Purchasing may conduct discussions with any offeror who has submitted a proposal in order to determine such offeror's qualifications for further consideration. Such discussions shall not disclose any information derived from proposals submitted by other offerors.

F. *Approval.* No contract shall be awarded without approval of its form and substance by the Town Attorney's office.

G. *Notice.* Notice of all professional service contracts shall be provided to the Town Board.

4. **Small Purchases**

- Purchases of \$20,000 or less for commodities, equipment, materials, supplies and services.
- Purchases of \$35,000.00, or the maximum amount pursuant to the General Municipal Law of the State of New York, for public works projects.

Section 104-b of the New York State General Municipal Law requires that procedures for purchasing goods and services that fall below the monetary bid limits be established and approved by the governing board. The following shall constitute Town of Ramapo Policy:

A. *Cumulative Purchases.*

i. Purchases shall be evaluated with attention given to cumulative dollar amounts expected in a given fiscal year. The Director of Purchasing shall canvas using agencies to determine yearly value of a commodity or service. Past history can be taken into consideration when evaluating yearly costs associated with the purchase of a commodity or service. If the bid limit is suspected to be exceeded competitive bidding shall be used. This decision shall rest with the Director of Purchasing.

ii. If there are several comparable separate public works projects for the same or various locations, in a foreseeable time frame, whose expected cumulative total is \$5,000.00 or more, written quotes must be obtained from a minimum of three suppliers.

B. *Methods of Procurement Not Covered By Competitive Bidding.*

i. Purchases of commodities, equipment, supplies, materials and services under \$1,000.00 shall be awarded at the discretion of the Director of Purchasing; purchases from \$1,000.00 to \$4,999.99 will require a minimum of three (3) telephone, facsimile or e-mail quotes; purchases from \$5,000.00 to \$20,000.00 will require a minimum of three (3) written quotes. All purchases of more than \$20,000.00 will be competitively bid.

ii. Purchases that are defined as Public Works Projects under \$4,999.00 shall be awarded at the discretion of the Director of Purchasing; purchases from \$5,000.00 to \$14,999.99 will require a minimum of three (3) telephone, facsimile or e-mail quotes; purchases from \$15,000.00 to \$35,000.00, or the maximum amount pursuant to the General Municipal Law of the State of New York, will require a minimum of three (3) written quotes. All purchases of more than \$35,000.00, or the maximum amount

pursuant to the General Municipal Law of the State of New York, will be competitively bid.

iii. Purchase contracts up to \$15,000.00 will be awarded at the discretion of the Director of Purchasing. Purchase contracts in excess of \$15,000.00 will require the issuing of a Request for Quote and approval of the Town Board. Notice of all purchase contracts shall be given to the Town Board. No contract shall be awarded without approval of its form and substance by the Town Attorney's office.

C. *Award.* All awards from telephone, facsimile, e-mail or written quotes shall be made to the supplier offering the best value to the Town. In determining the best value for the Town, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the Director of Purchasing may consider other relevant factors, including, but not limited to:

- i. installation costs;
- ii. life cycle costs;
- iii. the quality and reliability of the goods and services;
- iv. the delivery terms;
- v. indications of probable supplier performance under the contract as past supplier performance, the supplier's financial resources and ability to perform, the supplier's experience or demonstrated capability and responsibility, and the supplier's ability to provide reliable maintenance agreements and support;
- vi. the cost of any employee training associated with a purchase;
- vii. the effect of a purchase on agency productivity; and
- viii. other factors relevant to determining the best value for the Town in the context of a particular purchase.

D. *Documentation.* All quotes (written, telephone, facsimile or e-mail) shall be documented and shall be filed in the respective year's quote files or attached to the Purchasing Department's copy of the Purchase Order. A good faith effort shall be made to obtain the required number of proposals or quotations. If the Town is unable to obtain the required number of proposals or quotations, the attempt made shall be documented and become part of the purchasing record. In no event shall the inability to obtain the required number of proposals or quotations be a bar to the procurement.

5. Sole Source Procurement

A contract may be awarded without competition when the Director of Purchasing, in consultation with the Director of the requesting department, after conducting a good faith review of available resources, determines that there is only one source for the required commodity, supply, service or construction item. Director of Purchasing together with the using department shall conduct negotiations, as appropriate, as to price, delivery and terms. A record of the good faith review and negotiations shall be provided to the Director of Purchasing for approval of the sole source procurement.

6. Emergency Procurements

Notwithstanding any other provision of this Policy, the Supervisor, or if he/she is unavailable then the Deputy Supervisor, or if he/she is unavailable then the Director of Purchasing, or if he/she is unavailable then the Town Attorney, or if he/she is unavailable then the Department Head of the department seeking the emergency procurement, may make or authorize others to make emergency procurements of commodities, supplies, services, or construction items when there exists a threat to public health, welfare, or safety or Town property; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. Written documentation of the basis for the emergency and for the selection of the particular supplier shall be included in the purchasing record. The Town Board shall be notified of such emergency procurement within a reasonable time thereafter.

7. Cancellation of invitations for Bids or Request for Proposals

Any invitation for bids, request for proposals, or other solicitation may be cancelled, or any proposals may be rejected in whole or in part as may be specified in the solicitation when it is for good cause and in the best interest of the Town.

DISPOSITION POLICIES AND PROCEDURES

ARTICLE 1-GENERAL PROVISIONS

1. Purpose

No statute prescribes a procedure for the sale of unneeded Town personal property, and therefore there is no statutory mandate that such property be sold only after public advertisement for sealed bids or advertisement for public auction. The method chosen for sale is within the sound discretion of the Director of Purchasing, subject to the approval of the Town Board. However, in order to fulfill a fiduciary duty, the method of sale adopted should be one which is thought to bring the best price or maximum benefits and may include sale by auction, private negotiation, or competitive bidding.

2. Declaration of Surplus

Unneeded Town personal property sought to be disposed of must be declared surplus by the Town Board prior to the disposition of such property.

3. Procedures for determining whether dispositions should be subject to sealed bidding or public auction.

The procedure for determining whether the disposition of unneeded personal property should be subject to competitive bidding or public auction is to obtain from the Department Head of the department seeking to dispose of the property the estimated dollar value of the item(s) to be disposed of. If the estimate is \$10,000.00 or more, the item(s) to be disposed of should be advertised for competitive bid sale or public auction. The estimate obtained, indicating the source, date and amount, will be documented as part of the disposition record.

4. Methods of Competition to be used for Non-Bid or Auction Dispositions

A. *The methods of disposition to be used are as follows:*

- i. For dispositions with an estimated value greater than \$3,000.00 but less than \$10,000.00, there shall be required a written offer for sale and a written offer to purchase from three (3) offerors;
- ii. For dispositions with an estimated value up to \$3,000.00 dollars, the decision will be left to the discretion of the Director of Purchasing.
- iii. A good faith effort shall be made to obtain the required number of offers to purchase. If the Town is unable to obtain the required number of offers to purchase, the attempts made shall be documented and become part of the disposition record. In no event will the inability to obtain the required number of offers to purchase be a bar to the disposition.
- iv. The above notwithstanding, the Director of Purchasing, at his/her discretion, may require standards which exceed those presented in this policy.

5. Adequate Documentation

A. *Documentation of actions taken in connection with each method of disposition is required, as follows, and will be maintained as part of the disposition record.*

- i. Where a written offer for sale is required or made, a copy of that written offer for sale, and any written offer for purchase, submitted by offerors in response to that request.

ii. Where a verbal offer for sale is required or made, a listing of the offerors contacted and the response, if any, that each offeror made.

iii. Any memoranda, forms, notations, or other documentation used in establishing the basis of the disposition decision.

iv. No documentation other than the independent estimate itself by the Department Head of the department seeking disposition is required when the disposition is left to the discretion of the Director of Purchasing.

6. Awards to Other than Highest Responsible Dollar Offeror

Whenever any disposition is awarded to other than the highest responsible dollar offeror, the reasons such an award furthers the purpose of the Town as set forth herein above shall be documented by the Director of Purchasing and be maintained as part of the disposition record.

7. Items Exempted From Disposition Policies and Procedures

The Town Board will set forth, by resolution, circumstances when, or types of dispositions for which, in the sole discretion of the Town Board, the solicitation of alternative offers to purchase will not be in the best interest of the Town. Such resolution will state the reasons for such conclusion, and will become an attachment to the disposition record.

ANNUAL REVIEW

The Town Board shall annually review these policies and procedures. As part of the annual independent audit, the independent auditors shall conduct an annual review and evaluate the internal control structure established to ensure compliance with this procurement and disposition policy.