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IN THE MATTER

RESOLUTION

of

A Resolution Reviewing and Adopting  
Amended Purchase and Procurement Policies  
for the Town of Manlius Pursuant to General  
Municipal Law §104-b.

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The **TOWN BOARD OF THE TOWN OF MANLIUS**, in the County of Onondaga, State of New York, met in regular session at the Town Hall in the Town of Manlius, located at 301 Brooklea Drive in the Village of Fayetteville, County of Onondaga, State of New York, on the 19th day of November, 2014 at 7:00 p.m.

The meeting was called to order by Edmond J. Theobald, Supervisor, and the following were present, namely:

	Edmond J. Theobald	Supervisor
	Karen Green	Councilor
Absent	John R. Loeffler	Councilor
	David M. Marnell Sr.	Councilor
Absent	Vincent Giordano	Councilor
	Jason Cassalia	Councilor
	Nicholas J. Marzola	Councilor

The following resolution was moved, seconded and adopted:

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

**WHEREAS**, pursuant to GML§ 104-b the Town has previously adopted internal policies and procedures governing all procurement of goods and services, however due to recent amendments by the State Legislature to the provisions of GML §103 relative to competitive bidding and procurement policies, an update to the Town's policies and procedures is needed; and

**AMENDMENT TO COMPETITIVE BIDDING  
CONTRACT/PURCHASE LIMITS**

**WHEREAS**, effective November 12, 2009 the GML §103 contract/purchase limits were increased from \$10,000 to \$20,000 for purchase contracts and from \$20,000 to \$35,000 for public works contracts, thereby necessitating a modification to the procurement policies of the Town; and

**AMENDMENT TO PERMIT THE AWARD OF PURCHASE CONTRACTS  
ON THE BASIS OF BEST VALUE**

**WHEREAS**, effective November 13, 2013, GML §103 was further modified to provide local governments greater flexibility in awarding contracts by authorizing the award of purchase contracts, including contracts for service work, on the basis of best value rather

than the lowest responsible bidder; and

**WHEREAS**, the enactment of this legislation provides additional procurement options to localities in ways that may expedite the procurement process and result in cost savings; for example, taxpayers are not well served when a public procurement results in low unit costs at the outset, but ultimately engenders cost escalations due to factors such as inferior quality, poor reliability and difficulty of maintenance; the best value procurement links the procurement policy directly to the municipality's performance requirements, incorporating selection factors, such as useful lifespan, quality and options and incentives for more timely performance and/or additional services; and

**WHEREAS**, even if the initial expenditure is higher, considering the total value over the life of the procurement may result in a better value and long-term investment of public funds. Best value procurement also encourages competition and, in turn, often results in better pricing, quality and customer service. Fostering healthy competition ensures that bidders will continue to strive for excellence in identifying and meeting municipalities' needs, including such important goals as the participation of small, minority and women-owned businesses, and the development of environmentally-preferable goods and service delivery methods. Best value procurement will provide much-needed flexibility in obtaining important goods and services at favorable prices, and will reduce the time to procure such goods and services; and

**WHEREAS**, "best value" means the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerers that are small businesses or

certified minority- or women-owned business enterprises as defined in (NYS) Executive Law §310(1), (7), (15) and (20), to be used in evaluation of offers for awarding of contracts for services; and

**WHEREAS**, in order for a political subdivision with a population of less than one million to award contracts on the basis of best value, it must pass a local law authorizing the use of the best value award process; and

**AMENDMENT TO PERMIT PIGGYBACKING OF U.S., STATE OR OTHER  
POLITICAL SUBDIVISION OR DISTRICT LET CONTRACTS**

**WHEREAS**, effective August 1, 2012, a new subdivision 16 was added to GML §103 to authorize political subdivisions and districts therein to purchase apparatus, materials, equipment and supplies, and to contract for services related to the installation, maintenance or repair 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 therein;

**WHEREAS**, GML §103(16) further provides that the contract must be let either to the lowest responsible bidder or on the basis of best value in a manner consistent with GML §103;

**WHEREAS**, this amendment provides that political subdivisions that wish to make procurements under GML §103(16) through the use of a contract let on the basis of best value must have first authorized the use of best value for awarding their own purchase contracts by local law; and

**WHEREAS**, based on these amendments to GML §103 the Town Board wishes to

amend its procurement policies to reflect same; and

**WHEREAS**, such policies may be established and/or modified by duly adopted resolution of the Town Board; and

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town of Manlius Town Board does hereby repeals its existing procurement policies, and adopts the following procurement policies and procedures:

2014

**TOWN OF MANLIUS**

**INTERNAL PROCUREMENT POLICY**

**GUIDELINE 1.** Every prospective purchase of goods or services shall be evaluated to determine the applicability of General Municipal Law §103. Every Town officer, board, department head or other personnel with the requisite purchasing authority (“Purchaser”) shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvas 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.**

A. All purchases of:

1. Supplies or equipment which will exceed \$20,000 in the fiscal year shall be formally bid pursuant to General Municipal Law §103.
2. Public works contracts over \$35,000 shall be formally bid pursuant to General Municipal Law §103.

B. All estimated purchases of:

1. Less than \$20,000 but greater than \$3,000 require quotes from 3 vendors and will be subject to approval by the Town Supervisor.

2. Highway: Greater than \$3,000 will be subject to approval by the Town Supervisor. Any purchase less than \$3,000 may be subject to approval by the Town Supervisor. Any purchase for salt, diesel, and asphalt that is purchased off State or County contract is not subject to approval by the Town Supervisor.
3. Police: Greater than \$1,000 will be subject to approval by the Town Supervisor. Any purchase less than \$1,000 may be subject to approval by the Town Supervisor.
3. All other Departments: Greater than \$250 will be subject to approval by the Town Supervisor. Any purchase less than \$250 may be subject to approval by the Town Supervisor.

C. All estimated public works contracts of:

1. Less than \$35,000 but greater than \$5,000 require Quotes from at least 3 contractors and will be subject to approval by the Town Supervisor.
2. Less than \$5,000 may be subject to approval by the Town Supervisor.

The purchaser shall compile a list of all vendors from whom quotes and proposals have been requested and the quotes and proposals offered.

All information gathered in complying with the procedures of this Guideline shall be preserved and filed with the documentation Supporting the subsequent purchase of contract.

**GUIDELINE 3.** In addition to the requirements set forth in Guideline 2, all purchases or public works contracts exceeding \$100 must be reviewed and approved by the Town Councilor in charge of purchasing. This Guideline shall not apply to the Town of Manlius Highway Department, the Police Department or items Included in the Town of Manlius Budget provided as to the latter the purchase or contract price does not exceed the budgeted amount by more than 10%.

**GUIDELINE 4.** Except as provided in Guidelines 6 and 7 hereof, the lowest responsible proposal or quote shall be awarded the purchase or contract unless the purchaser prepares a written justification providing reasons why it is in the best interest of the Town and its taxpayers to make an award to other than the vendor or contractor with the lowest responsible quote or proposal. If a vendor or contractor is not deemed responsible, facts supporting that judgment shall also be documented and file with the record supporting the procurement and the vendor or contractor shall be granted a right to be heard on such issues prior to award.

**GUIDELINE 5.** If a quote or proposal is received from a local vendor or contractor which approximates or is substantially similar to the lowest quote or proposal

received, the Purchaser may opt to award the purchase contract to said local vendor or contractor. For purposes hereof "local" shall mean its main business premises are located within 50 miles of the Town of Manlius.

**GUIDELINE 6.** The Town Board may permit the use of best value as a method of awarding contracts in a manner that is in the best interest of the Town. Goods and services procedure and awarded on the basis of best value are those that are proven to optimize quality, cost and efficiency, among responsive and responsible bidders/offers. The determination shall be based on an objective analysis of clearly described and documented criteria as they apply to the rating of bids and offers. Where possible, such determination shall also be based upon and include a quantifiable analysis of the same. The criteria may include, but shall not be limited to, any or all of the following:

- a. Cost of maintenance;
- b. Proximity to the end user if distance or response time is a significant term;
- c. Durability;
- d. Availability of replacement parts or maintenance contractors;
- e. Longer product life
- f. Product performance criteria; and
- g. Quality of craftsmanship.

Whenever any contract is awarded on the basis of best value instead of lowest responsible bidder, the basis for determining best value shall be thoroughly and accurately documented.

**GUIDELINE 7.** Pursuant to GML §103(16), the Town Board may authorize the purchase of apparatus, materials, equipment and supplies, and contracts for services related to installation, maintenance or repair 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 therein. When determining whether the procurement falls within this exception to the competitive bidding process, the Town Board must make a finding that the following three (3) prerequisites have been met:

1. The contract must have been let by the United States or any agency thereof, any state or any other political subdivision or district therein. Therefore, there must be an underlying contract let by one of the listed governmental entities. Contracts developed for use by local governments that are let by private parties (e.g., a private company, association or not-for-profit corporation is the party awarding the contract to the vendor), and not by the United States or any agency thereof, any state or any other political subdivision or district therein, would not fall within the exception.

2. The contract must have been made available for use by other governmental entities. This means that the other governmental entity has taken steps to make its contract available for New York local governments. In general, this would occur by inclusion in the contract let by the other entity of a clause extending the terms and conditions of the contract to other governmental entities. Unilateral offers by vendors to extend contract pricing and other terms and conditions would not fall within the exception.
3. The contract must have been let to the lowest responsible bidder or on the basis of best value in a manner consistent with GML §103. The Town Board should obtain background information on the procedures used to let the contract, and, as necessary, consult with the Attorney for the Town to determine whether this prerequisite is met.

**GUIDELINE 8.** 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 quotations, the Purchaser shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

**GUIDELINE 9.** Except when directed by the Town Board or the Town councilor in charge of purchasing, no solicitation or proposals or quotations shall be required under the following circumstances:

- a. Emergencies;
- b. Sole source situations;
- c. Goods purchased from another governmental agency;
- d. Goods purchased at auction;
- e. Goods purchased from a correctional facility;
- f. Goods purchased for less than \$250;
- g. Public works contracts for less than \$500

**GUIDELINE 10.** This policy has been implemented pursuant to General Municipal Law §104, and is intended to provide guidelines that will lend uniformity and structure to the purchasing process in the Town of Manlius. this policy shall not create any obligation or duty on the part of the Town nor shall it serve to create any rights on the part of vendors, purchasers, or citizens to assert any claim whatsoever against the Town or any of its officials or employees for failure to comply with the requirements of this policy.

**GUIDELINE 9.** This policy shall be reviewed annually by the Town Board at its organizational meeting or as soon thereafter as is reasonably practicable.

RESOLVED, that this Resolution take effect immediately.



The adoption of the foregoing Resolution was moved by Councilor Marnell, seconded by Councilor Marzola, and duly put to vote, which resulted as follows

Ayes: 5

Nays: 0

**THIS RESOLUTION WAS ADOPTED.**

**I, ALLISON EDSALL**, Town Clerk of the Town of Manlius, **DO HEREBY CERTIFY** that the preceding Resolution was duly adopted by the Town Board of the Town of Manlius at a regular meeting of the Board duly called and held on the 19<sup>th</sup> day of November, 2014; that said Resolution was entered in the minutes of said meeting; that I have compared the foregoing copy with the original thereof now on file in my office; and that the same is a true and correct transcript of said Resolution and of the whole thereof.

**I FURTHER CERTIFY** that all members of said Board had due Notice of said meeting.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed The seal of the Town of Manlius, this 19<sup>th</sup> day of November 2014.

**DATED:       November 19, 2014**  
**Fayetteville, New York**

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**ALLISON EDSALL**  
**Town Clerk of the Town of Manlius**  
**Onondaga County, New York**