

RESOLUTION NO. 56-2018

**A RESOLUTION ADOPTING A PROCUREMENT AND PURCHASING
POLICY FOR THE VILLAGE OF LOUDONVILLE**

WHEREAS, the Council of the Village of Loudonville believes it is in the best interests of the Village and its citizens to have an established policy governing Village procurement and purchasing.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE
OF LOUDONVILLE, STATE OF OHIO:**

SECTION 1: The Council of the Village of Loudonville does hereby approve and adopt the Procurement and Purchasing Policy attached hereto and does instruct the Fiscal Officer of the Village to provide copies of the policy to all Village officers and department heads and to oversee its implementation.

Dated: _____

Stephen Stricklen, Mayor

Attest:

Elaine B. Van Horn, Fiscal Officer

Thomas R. Gilman, Village Solicitor

VILLAGE OF LOUDONVILLE, OHIO

PROCUREMENT AND PURCHASING POLICY

PURPOSE:

The Village of Loudonville, Ohio (“Village”) has implemented this Procurement and Purchasing Policy (“Policy”) to promote and maintain a system of procurement and purchasing that is efficient, consistent, effective, equitable, and assures quality and integrity in Village purchasing. The Village complies with all applicable federal and state laws concerning public purchasing.

SCOPE:

This Policy applies to any and all purchases of any kind made by the Village, including, but not limited to, goods, products, improvements, materials, supplies, vehicles, equipment, and/or services. It is to be interpreted and applied in conjunction with the statutory framework set forth within the Ohio Revised Code relating to the procurement and purchase of goods and services by a Village. This Policy shall not prohibit the Village from complying with the terms of any gift, grant, or other form of governmental assistance accepted by the Village that is otherwise authorized by law.

POLICY:

I. Purchasing Policy

- A. The Village shall attempt to purchase quality goods and/or services at the lowest price available, serving as an equal opportunity purchaser.
- B. It is the intent of the Village to purchase goods and/or services through joint or cooperative purchasing programs when appropriate.
- C. All expenditures for goods and/or services must be within appropriations previously approved by the Loudonville Village Council (“Council”), and properly documented.
- D. The Fiscal Officer (“FO”) shall document all purchases and payments to ensure that proper purchasing records are maintained.
- E. When required by law, purchases shall be made from the vendor that has submitted the lowest and best offer/bid, with consideration given to quality of goods and/or services, conformance to specifications, suitability to Village needs, delivery capability, and past performance.
- F. All purchases requiring the expenditure of Village funds shall be supported by a Fiscal Officer’s Certificate as required by R.C. § 5705.41(D) signed by the FO.

II. Conflicts of Interest

- A. All Village officials, officers, Council members, employees, or agents of the Village shall comply with all applicable ethics laws, including, but not limited to, R.C. Chapter 102 and R.C. §§ 2921.42, 2921.421, and 2921.43.
- B. No Village official, officer, Council member, employee, or agent of the Village shall participate in any purchase or the selection, award, or administration of a contract by the Village and/or supported by Village or public funds where there is or may be a conflict of interest, involved. A conflict of interest arises when the official, officer, Council member, employee, or agent of the Village or his or her spouse, any member of his or her immediate family, his or her business associate or partner, or any entity or organization in which any such party has a financial, business, or other interest or which employs or is about to employ any such parties has any business, financial, or other interest in any vendor from whom a purchase is being considered, is to be made, has entered a bid, and/or is selected for an award and/or contract.
- C. No Village official, officer, Council member, employee, or agent of the Village shall solicit or accept any bribe, gratuity, favor or anything of monetary value from any person or entity with whom the Village is considering making a purchase, or any vendor, bidder, contractor, and/or party to a purchase contract. As used in this section, "bribe, gratuity, favor, or anything of monetary value" does not include gifts that are de minimis, not substantial in nature, or are unsolicited items of nominal value. Nor shall this section prohibit ordinary compensation for services and/or employment.
- D. In addition to any penalties required or provided by law, any Village official, officer, Council member, employee, or agent of the Village who violates a provision of this section shall be subject to disciplinary action up to and including termination from employment.

III. Competition

All purchases and procurements shall be made and/or conducted consistent with all applicable law, including, but not limited to, any applicable competitive selection procedures, and in a manner that provides for open and free competition.

Solicitations for bids or proposals shall set forth all requirements that a bidder/proposer shall fulfill in submitting a bid or proposal in order for the bid or proposal to be considered and evaluated by the Village.

Awards shall be made to the bidder or proposer whose bid or proposal is most responsive to the solicitation and is deemed the lowest and best, unless a different standard is required by law or has been adopted by the Council as permitted by law. The Council reserves the right to select the bidder or proposer deemed to meet such applicable standard, as determined solely by the Council, to reject any and/or all bids or proposals, or any portion of any and/or all bids or proposals, to waive informalities or irregularities that do not affect the substance of the specifications and

contents of the solicitation, and to award the bid in the manner deemed to be in the best interest of the Village.

IV. Purchasing Procedures

The following procedures shall apply to all purchases:

A. Purchases of \$2,500.00 or less.

Except as otherwise required by applicable law, including, but not limited to, any applicable competitive selection procedures, purchases of \$2,500.00 or less shall only be made by approval of the Council or by approval of a Village officer, employee, and/or the Administrator authorized by the Council to make such purchases. If applicable law requires the purchase be made using a competitive selection procedure or other specific procedure, such legally required procedure shall be followed and used to make the purchase. Procedures contained in this Policy shall supplement such legally required procedures to the extent compatible and not in conflict.

B. Purchases of more than \$2,500.00, but less than \$50,000.00.

Except as otherwise required by applicable law, including, but not limited to, any applicable competitive selection procedures, purchases of more than \$2,500.00, but less than \$50,000.00, shall only be made by approval of the Council and in accordance with the following procedures:

1. With the exception of purchases proposed by the Council, all requests for purchases shall be made to the Council through the Administrator or Department Heads. Before beginning the purchasing process, proposed purchases shall be presented to the Council. The presentation shall include, but not be limited to, a description of the good(s) and/or service(s) proposed to be purchased, an explanation of need for the good(s) and/or services, the projected cost of the purchase, the proposed source of funds for the purchase, and/or any other relevant information.
2. The Council may approve proceeding with the purchasing process and, if required by applicable law, with any applicable competitive selection procedure. Any such approval shall be by resolution. Such resolution shall be obtained before proceeding with the purchasing process or the preparation and letting of a Request for Bids (RFB) or Request for Proposals (RFP).
3. The Administrator and, if necessary, with the individual proposing the purchase, shall recommend the lowest and best quote to the Council. The recommended quote, all other quotes that were considered, the attendant purchase contract or documents, and a draft resolution to approve the purchase shall be presented to the Council for consideration.
4. The Council may approve or decline to approve the recommendation, approve another quote as being "lowest and best," or may request additional quotes. If additional quotes are requested, they shall be evaluated and presented to the Council as provided in this Policy.

5. A purchase shall be approved by the Council before any commitment or payment to a vendor.
6. Notwithstanding the provision of this section, the Village Administrator may make such purchases as are permitted by Ohio Revised Code Section 731.141 without action or consent of the Council.

C. Purchases of \$50,000.00 or greater.

Except as otherwise required by applicable law, including, but not limited to, any applicable competitive selection procedures, purchases of \$50,000.00 or greater shall only be made by approval of the Council and in accordance with the following procedures:

1. With the exception of purchases proposed by the Council, all requests for purchases shall be made to the Council through the Administrator or Department Supervisor. Before beginning the purchasing process, proposed purchases shall be presented to the Council. The presentation shall include, but not be limited to, a description of the good(s) and/or service(s) proposed to be purchased, an explanation of need for the good(s) and/or services, the projected cost of the purchase, the proposed source of funds for the purchase, and/or any other relevant information.
2. The Council may approve proceeding with the purchasing process and, if required by applicable law, with any applicable competitive selection procedure. Any such approval shall be by resolution. Such resolution shall be obtained before proceeding with the purchasing process or the preparation and letting of an RFB or RFP.
3. If the purchase is to be made by a competitive selection procedure, such procedure shall follow and comply with any procedure required and specified by law for such purchase. The following shall supplement the competitive selection procedure used to the extent compatible and not in conflict:
 - a. As applicable, the RFB or RFP shall include, but not be limited to including, a detailed description of the good(s) and/or service(s) to be purchased, specifications, technical requirements, minimum and maximum acceptable standards, and preferences. The RFB or RFP shall also include timelines, deadlines, a description of the process for submitting a bid, description of the evaluation and award processes, material contractual terms and conditions, bonding requirements, a bid blank, and forms required to submit with a bid or proposal and/or required to be submitted with an awarded contract.
 - b. Notice shall be as required by applicable law.
 - c. Bids/Proposals shall be publicly opened at the time and place designated in the RFB or RFP.
 - d. Bids/Proposals will be evaluated based upon criteria detailed in the RFB or RFP.
 - e. Award will be made as set forth in the RFB or RFP. The Council, by resolution, shall approve the award of the contract.
4. A purchase shall be approved by the Council before any commitment or payment to a vendor.

V. Alternative Purchasing Procedures

Nothing in this Policy shall prohibit or limit or be construed to prohibit or limit the Council or the Village from utilizing the following alternatives to the purchasing procedures set forth in Section IV of this Policy:

- A. If not otherwise required by law and if the Council so decides, the Council may make any procurement or purchase through a competitive selection procedure.
- B. The Council may make procurements or purchases using the Ohio Department of Administrative Services (DAS) Ohio Cooperative Purchasing Program, the Ohio Department of Transportation (ODOT) Cooperative Purchasing Program, or other cooperative purchasing programs in which the Village may be authorized to participate. To make procurements or purchases through such programs, the Village shall be an active member of the applicable program, if membership is required, and all procurements or purchases made using any such programs shall be made in accordance with applicable law and the rules of the program.

VI. Specific Considerations in Selecting a Contractor/Vendor

Contracts shall be made only with responsible vendors/contractors who possess the ability to perform successfully under the terms and conditions of the proposed procurement or purchase.

VIII. Contract Administration

As applicable, it is the responsibility of the Administrator, Department Supervisors and Police and/or Fire Chief to maintain a system for contract administration within their department to ensure contractor conformance with the terms, conditions, and specifications of the contract. The Village Administrator shall receive regular reports from Department Supervisors, Police and Fire Chief on any on-going contracts and shall be notified immediately of any failure of the contractor/vendor to meet the standards set forth in the contract.

IX. Contracts Receiving Federal Funding

All Village contracts receiving funding from the United States Government shall include the following terms:

- A. Contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms and provide for such remedial actions as may be appropriate.
- B. Suitable provisions for termination by the Village and/or the contractor, including the manner by which termination shall be effected and the basis for settlement.
- C. Bonding. In connection with contracts for construction or for public improvements, the Village shall follow its own or, at a minimum, any applicable legal requirements relating

to bid guarantees, performance bonds, and payment bonds, unless the construction contract or subcontract exceeds \$100,000.00. For those contracts or subcontracts exceeding \$100,000.00, the Federal awarding agency may accept the bonding policy and requirements of the Village, provided that all applicable legal requirements for such bid guarantees and/or bonds are met and the Federal awarding agency has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, at a minimum, any applicable legal requirements relating to bonds and/or bid guarantees for such contracts shall be met and, in addition thereto, the bonds and/or bid guarantees shall meet the following requirements:

1. A bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part of the contractor for one hundred percent (100%) of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. A payment bond on the part of the contractor for one hundred percent (100%) of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and materials in the execution of the work provided for in the contract.

Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 C.F.R. Part 22 (Code of Federal Regulations; titled "Surety Companies Doing Business with the United States").

- D. As applicable, all contracts awarded by the Village and its contractors shall contain the procurement provisions of Appendix A of 2 C.F.R. Part 215.

As required and necessary, negotiated procurement contracts may include a provision that the Village, the Federal awarding agency, the Comptroller General of the United States, or any other of their duly authorized representatives, shall have access to any books, documents, papers and records of the contract which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

The Village shall, upon request and if applicable, make available for the Federal awarding agency pre-award review and procurement documents, such as the RFB, RFP, or independent cost estimates.

X. Disclaimers/Rights of the Village

The Council and Village retain the following rights:

- A. To select and award the contract to the lowest and best bidder as determined solely by the Council and/or the Council's representative(s).

- B. To consider all elements entering into the question of determining the qualifications and responsibility of the Bidder, his or her agent(s), or representative(s).
- C. To waive informalities or irregularities that do not affect the substance of the specifications and contents of the RFB or RFP. Any such waiver shall not modify any remaining requirements or excuse the bidder/vendor from full compliance with the RFB or RFP specifications and other requirements if the bidder/vendor is awarded the contract.
- D. To withdraw an RFB or RFP at any time and/or for any reason.
- E. To issue such clarifications, modifications, supplements, and/or amendments to an RFB or RFP as the Council may deem appropriate.
- F. To reject any or all bids in-whole or in-part.
- G. To award the contract in the manner deemed to be in the best interest of the Village.
- H. To award a contract to other than the lowest bidder should such action be in the best interest of the Village and/or public.
- I. To negotiate any viable modifications in price, terms, conditions or specifications with the low bidder that would be advantageous to the Village.

The Village may require bid guarantees and/or bonds as required by law or as deemed appropriate, including, but not limited to, bid bonds, bid guarantees, contractor's bonds, and/or performance bonds.