



# **Town of Union Vale Procurement Policy**

May 2018

Reviewed March 2019

Reviewed March 2020

Approved February 2021

Approved January 2022

# Town of Union Vale Procurement Policy

## **Legislative authority; definitions.**

- A. Section 104-b of the General Municipal Law requires all municipalities and districts therein to adopt procurement policies for goods and services which are not required by law to be publicly bid. This policy sets forth standard procedures for ordering and purchasing services and supplies in the Town of Union Vale.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

## **BIDDER**

Person or organization who submits a bid in response to a request for bids.

## **PURCHASER**

Town body or official who has been authorized by the Town Board to commit the Town to the basic terms of a purchase contract.

## **SUCCESSFUL BIDDER**

Bidder whose bid has been accepted by the purchaser.

## **General policies.**

- A. It is and shall remain the policy of the Town that all Town purchases of goods and services shall be made without regard to the age, sex, race, religion, color, national origin, physical handicap or political affiliation of the vendor or provider of services.
- B. Provided that quality and service are at least comparable, it is and shall remain the policy of the Town that all Town purchases of goods and services shall be made at the lowest possible price available.
- C. Provided that quality, service and price are at least comparable, preference in purchases will be given to vendors who have a place of business within the Town of Union Vale and the County of Dutchess.
- D. The Town Board may, by resolution, delegate the authority to purchase, vested upon it by the Town Law, upon any Town official. The Town Board shall bear ultimate responsibility for purchases made under its delegation of

power. The Town Board may, by resolution, revoke the authority it has delegated upon a Town official to act as purchaser.

**Procedures.**

- A. It is expected that all purchases must fall within departmental budget appropriations for the current fiscal year. The purchaser shall initially review the requirement to determine whether it is a purchase contract or a public works contract. The purchaser shall then make a good faith effort to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year. The following items are not subject to competitive bidding pursuant to § 103 of the General Municipal Law:
  - (1) Purchase contracts under \$20,000.
  - (2) Public works contracts under \$35,000.
  - (3) Emergency purchases.
  - (4) Goods purchased from agencies for the blind or severely handicapped.
  - (5) Goods purchased from correctional institutions.
  - (6) Purchases under state and county contracts.
  - (7) Surplus and secondhand purchases from another governmental entity.
- B. When a purchaser decides that a purchase is not subject to competitive bidding, the purchaser shall document in writing such decision. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at a copy of the contract indicating the source which makes the item or service exempt or a memo from the purchaser detailing the circumstances which led to an emergency purchase. The Procurement Explanation shall be attached to the voucher.
- C. All goods and services, except those goods and services purchased

through a county or state contract, from agencies for the blind or severely handicapped, from correctional institutions or purchases pursuant to Subsection **G** of this section, will be secured by use of written requests for proposals, written quotations, verbal quotations or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided.

D. Method of purchase.

- (1) The following method of purchase will be used in order to achieve the highest savings, except for those items listed in Subsection **A** above. The Procurement Explanation Form or suitable “note to file” must be attached to all vouchers for purchases with verbal quotes in which the lowest price was not the reason for a purchase and for all purchases over \$1000.00. [Amended 4-21-1999; 5-17-2018]

<b>Estimated Amount of Purchase</b>	<b>Procurement Method</b>
\$1.00 - \$999	Discretion of purchaser. Voucher or purchase order signed by department head and approved by Supervisor before the purchase (exclusive of the Highway Department).
\$1,000 - \$2500	Highway Department only.  Voucher or purchase order signed by Highway Superintendent; no countersignature

	<p>required by Supervisor. Procurement Explanation Form shall accompany the voucher when submitted for payment.</p>
\$2500 - \$5000	<p>Highway Department only.</p> <p>Oral request for the goods and oral fax/quotes from two vendors; voucher or purchase order signed by Highway Superintendent; no countersignature by Supervisor is required for Highway Department purchases if voucher or purchase order is signed by Highway Superintendent.</p> <p>Procurement Explanation Form shall accompany the voucher when submitted for payment.</p>
\$1,000 to \$2,999	2 verbal quotations
\$3,000 to \$19,999 written request for proposals	3 written/FAX quotations or
\$20,000 and over	Formal bid process pursuant to General Municipal Law § 103

## **Estimated Amount of Public Works**

<b>Contract</b>	<b>Procurement Method</b>
\$1,000 to \$2,999	2 verbal quotations
\$3,000 to \$4,999	2 written/FAX quotations
\$5,000 to \$34,999 written request for proposals	3 written/FAX quotations or
\$35,000 and over	Formal bid process pursuant to General Municipal Law §103

- (2) The purchaser shall make a good faith effort to obtain the required number of alternate proposals. If unable to obtain the required number of alternate proposals, the purchaser shall document the attempt made at obtaining them by attaching the Procurement Explanation Form to all vouchers explaining the reason for the final choice. In no event, however, shall the failure to obtain the proposals be a bar to the procurement.
- E. Bid solicitation. The Town Board shall review advertisements soliciting bids before they are placed for publication. The text of advertisements soliciting bids for the purchase of goods shall contain a fair description of what is to be purchased. The text of advertisements for the purchase of services shall describe the project requirements in sufficient detail for a potential bidder to determine whether or not the bidder is interested in submitting a bid.
- F. Requests for bids shall make it clear that each quotation or proposal submitted in connection with the procurement should include all relevant documentation necessary for the responsible Town Officials to make the award decision.
- G. Whenever a contract is awarded to other than the lowest responsible offeror, the purchaser shall support such decision with documentation and an explanation of how the award will achieve

savings. The Procurement Explanation Form must be submitted with a voucher to serve this purpose. The purchaser will be responsible for determining if the offeror is responsible.

- H. In some circumstances it is not in the best interests of the Town of Union Vale to solicit quotations or to document the basis for not accepting the lowest bid. In these circumstances, the individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity, moral worth and the ability to have a close relationship with the governing body. 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. The procurement of professional services or of services requiring special or technical skill, training or expertise fall within the purview of this section. The citizens of the municipality deserve the benefit of expertise in these types of services, as an effective performance in these areas, although hard to quantify, ultimately saves the taxpayers' money. For Best Value purchases please refer to the Town Code Chapter 65.
  
- I. In addition, in the following situations it is not in the best interests of the municipality to secure alternate proposals because of the time required and type of purchase:
  - (1) Emergency purchases pursuant to § 103, Subdivision 4, of the General Municipal Law;
  
  - (2) Purchases of surplus and secondhand goods pursuant to § 103, Subdivision 6, of the General Municipal Law;
  - (3) Purchases under \$1,000; and [Amended 4-21-1999]
  - (4) Goods and services with sole source vendors.
  
- J. This policy shall go into effect on June 8, 1997, and will be reviewed

annually. [Amended 5-17-2018]

**Award of bid and contract.**

- A. A Town Board resolution determining whose bid or quotation is successful does not constitute a contract. The resolution is, rather, a necessary step before the prevailing bidder and the Town enter into a contract. Any such resolution awarding the bid shall contain the following language: "The rights and obligations of the prevailing bidder shall be defined in such bidder's contract with the Town. The acceptance of the bid gives the Town the right to secure the goods or services at the quoted price, in conformance with any additional terms enumerated in the request for bids or for quotations. The Town and the successful bidder shall negotiate in good faith such terms as remain to be defined, if any, after the successful bidder is selected."
- B. Once the Town Board or the authorized Town official has selected the prevailing bidder, the Town shall prepare a contract or review a proposed contract.

**Performance bond required.**

- A. Whenever a contract for the provision of goods or services exceeds \$35,000, or whenever the Town Board or authorized Town official deems it desirable, such contract shall be prepared or reviewed by the Town Attorney. Purchase orders issued by the Town are contracts.
- B. If a vendor is to provide work or services whose performance affects a substantial interest of the Town, such vendor shall provide a performance bond to ensure that the work or services are performed. Work or services that affect substantial interests of the Town shall include, but not be limited to:
  - (1) The construction or demolition of Town-owned facilities.
  - (2) Agreements for the provision of any services in an amount to be determined on a case-by-case basis by the Town Board.
  - (3) Removal of snow from Town roads.
- C. For the purposes of this chapter, the substantial interests of the Town shall be deemed affected when a failure to perform the work is likely to impair the



Town's ability to deliver necessary services to Town residents. The Town Board may designate work for which a performance bond shall be required on a case-by-case basis, and it may enlarge by resolution the categories of work that are deemed to affect a substantial interest of the Town.

- D. The Town Board or the purchaser shall consider whether the Town should determine the authenticity of the security bond by enlisting the assistance of the State Superintendent of Insurance.

**Insurance required.**

When, in the judgment of the Town Board or of the purchaser, a successful bidder's activities may expose the Town to liability because of injury to persons or property, such successful bidder shall be required to maintain liability insurance in suitable amounts. The Town shall be named in a rider to the insurance policy to prevent the cancellation of the policy without notice to the Town. If the Town Board so requires, the Town shall be named as an additional insured. The contract with a successful bidder shall require that the Town be provided with a copy of the required insurance policy and an original certificate made out to the Town. The successful bidder shall provide the certificate before the contract goes into effect.



**Town of Union Vale  
Procurement Explanation Form**

Date: \_\_\_\_\_

Purchaser (Name): \_\_\_\_\_

Purchaser's Title: \_\_\_\_\_

Name of Project this purchase is associated with: \_\_\_\_\_

Name Product or Service recently purchased on behalf of the Town of Union Vale:

\_\_\_\_\_

Purchase is a:

Commodity	<input type="checkbox"/>
Commodity with a Service Contract	<input type="checkbox"/>
Professional Service	<input type="checkbox"/>
Single Purchase	<input type="checkbox"/>
Contractual	<input type="checkbox"/>
Monthly	<input type="checkbox"/>
Quarterly	<input type="checkbox"/>
Annually	<input type="checkbox"/>
As-Needed	<input type="checkbox"/>

List all Products / Vendors / Firms Considered for this purchase:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This was a Store Purchase:    Local Provider & Delivery     Store pick – up

This was an Internet Purchase:    Amazon     Unique Internet Site

List Name of Store or Web Address: \_\_\_\_\_

For Professional Services were interviews conducted:    Yes     No

Deciding Factor for choosing this Product / Vendor / Service Provider:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***This Completed Form Must Be Attached to All Vouchers for Purchases with Verbal Quotes in which Lowest Price was not the Reason for Purchase and all purchases over \$1000.00.***

*(Form updated March, 2018)*

**RESOLUTION OF ADOPTION**

WHEREAS a Local Law was introduced by the Town Board of the Town of Union Vale as Local Law # 1 – 2021 entitled A LOCAL LAW AUTHORIZING BEST VALUE COMPETITIVE BIDDING AND PROCURMENT; and

WHEREAS, a public hearing in relation to said local law was held on July 15, 2021 at 7:00 p.m., Prevailing Time; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Union Vale for at least seven (7) days, exclusive of Sunday; and

WHEREAS, said local law is subject to permissive referendum pursuant to Municipal Home Rule Law Section 24;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted: TOWN OF UNION VALE LOCAL LAW # 1 - 2021 entitled A LOCAL LAW AUTHORIZING BEST VALUE COMPETITIVE BIDDING AND PROCURMENT:

Section 1. **The Union Vale Town Code will be modified to add a new Chapter 65 entitled “Best Value Competitive Bidding and Procurement” as follows**

**§ 65-1. Legislative Intent and Purpose**

The intent of this Law is to allow the Town of Union Vale the option to award certain purchase contracts (including contracts for services) subject to competitive bidding under §103 of the General Municipal Law on the basis of a low bid or “best value” as defined in §163 of the New York State Finance Law.

**§ 65-2. Authority**

This local law is enacted pursuant to the New York Municipal Home Rule Law, as authorized pursuant to New York State General Municipal Law §103 and the New York State Finance Law (including §163), and other provisions of law authorizing the Town of Union Vale to enter into contracts and engage in contracting for services.

**§ 65-3. Best Value Competitive Bidding**

- A. Award Based on Best Value. The Town Board may award purchase contracts, including contracts for services, on the basis of “best value” as the term is defined in New York State Finance Law §163. All contracts or purchase orders awarded based on best value bidding basis shall require Town Board approval.
  
- B. Applicability. The provisions of this Local Law apply to Town purchase contracts involving an expenditure of more than \$20,000 and Town contracts for services involving an expenditure of more than \$35,000, but exclude purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the New York Labor Law and any other contract that may in the future be excluded under State law from the best value option. If the dollar thresholds of New York General Municipal Law §103 are increased or decreased in the future by the State Legislature, the dollar thresholds set forth herein shall be superseded by such as §103 and this Local Law shall be read as if the numbers are amended to conform to said §103.
  
- C. Standard for Best Value.

1. Goods and services procured and awarded on the basis of best value are those that the Town Board determines optimize quality, cost and efficiency among responsive and responsible bidders, as set forth in the Procurement Policy adopted by the Town and as amended, hereafter and from time-to-time, by the Town Board.

2. Where possible, the determination shall be based on an objective and quantifiable analysis of clearly described and documented criteria as they apply to the rating of bids or offers.

3. The criteria may include, but shall not be limited to, any or all of the following:

- cost of maintenance
- proximity to the contractors or end use

- product life
- durability
- product performance criteria
- quality of craftsmanship
- warranties

D. Documentation. Whenever any contract is awarded on the basis of best value instead of lowest responsible bidder the basis for determining best value shall be documented.

E. Inconsistent Provisions. Any inconsistent provision of the Town Procurement Policy, as adopted prior to the effective date of this Local Law by resolution of the Town Board, or as amended thereafter, shall be deemed superseded by the provisions of this Local Law.

#### Section 2. **Severability.**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law. To further this end, the provisions of this Local Law are hereby declared to be severable.

#### Section 3. **Effective Date**

This Local Law shall take effect upon adoption by the Town Board and file date of NYS Secretary of State in accordance applicable provisions of law, and specifically Article 3, §27 of Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED that the Town Clerk shall only file this local law with the NYS Secretary of State if the period of time for the filing of a petition for permissive referendum expires without such petition having been duly and timely filed, or, in the event such petition is duly and timely filed, without affirmative vote on such referendum authorizing this local law; and

BE IT FURTHER RESOLVED, that the Town Clerk is directed to publish notice setting forth the date of adoption of this Resolution, containing an abstract of this Resolution concisely stating the purpose and effect of this Resolution and further specifying that this Resolution was adopted subject to permissive referendum. Councilman Welsh offered the following Resolution, which was seconded by Councilman Durland, who moved its adoption:

The foregoing Resolution was duly put to a vote which resulted as follows:

Councilman Frazier	Aye
Councilman Durland	Aye
Councilman McGivney	Aye
Councilman Welsh	Aye
Supervisor Maas	Aye

DATED: Union Vale, New York  
July 15, 2021

  
\_\_\_\_\_  
ANDREA CASEY, TOWN CLERK

Ayes 5 Noes 0 Resolution No. 21-29

I, Andrea Casey, Town Clerk of the Town of Union Vale DO, HEREBY CERTIFY that the foregoing is a true copy of a resolution offered by Councilman Welsh, seconded by Councilman Durland and adopted at the meeting of the Town Board, held on July 15, 2021.

  
\_\_\_\_\_  
Town Clerk, Union Vale – Andrea Casey