

A regular meeting of the Town Board of the Town of Moreau was held on July 24, 2012 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

TRANSFER STATION – COMPACTOR MAINTENANCE

Supervisor Jenkins stated that there is a bunch of miscellaneous items that are rather insignificant. We don't have prices yet, so he would like to put this on hold. It may be that if the cost is minimal we can just get three prices and take care of it. If not then it will come back before the Town Board at another meeting.

PROCUREMENT POLICY

Attorney Buettner has provided the board members with an updated copy of the proposed procurement policy. She has changed the two things that were requested. The rest seems to make sense to him, compared to other documents we had before with was our procurement policy. The only exception to that would be that in our Organizational Meeting Minutes we did override the basic language for highway and he doesn't know if we would have to do that again if we adopt this policy.

Councilman Kusnierz asked if this proposed policy overrides the one that we adopted, which one overrides which one?

Supervisor Jenkins said that they could wait and adopt this policy at the Organizational Meeting in January as far as he was concerned.

Councilman Kusnierz asked what the difference is.

Supervisor Jenkins replied that there isn't any significant difference it just puts it all in one document.

Councilman Kusnierz thought the threshold was different for highway.

Supervisor Jenkins said the only threshold may be for highway, we allowed them to go a little higher, because in the highway department even minor repairs can be expensive.

Councilman Kusnierz asked if it was in line with what we have in the minutes from our Organizational Meeting.

Supervisor Jenkins said this throws everybody under the same rule and we would have to reapprove that one for highway. Tim Burley requested a copy of our procurement policy that he needed to send to EFC and we had to send him a policy with about half a dozen notes of where we changed it several times. Most of this language is language that the State uses.

Councilman Kusnierz asked if the numbers are the same as what is in the Organizational Meeting Minutes and he was told yes.

Supervisor Jenkins said it is just a policy and we can adopt it by resolution. He asked if anyone wanted to make a motion to adopt it.

Councilwoman LeClair made a motion and it was seconded by Councilman Vittengl to adopt the following procurement policy.

Roll call vote resulted as follows:

Councilman Prendergast	Absent
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Vittengl	Yes
Supervisor Jenkins	Yes

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PROCUREMENT POLICIES AND PROCEDURES
FOR
THE TOWN OF MOREAU

WHEREAS, Article 5-A of the General Municipal Law (“GML”) sets forth requirements regarding the policies and procedures of municipalities in procuring goods and services; and

WHEREAS, the Town Board (the “Town Board”) of the Town of Moreau (the “Town”), County of Saratoga, State of New York, desires to adopt procurement policies and procedures in accordance with the requirements of Article 5-A of the GML; and

WHEREAS, comments concerning the Town’s procurement policies and procedures have been solicited from the Officers of the Town.

IT IS HEREBY RESOLVED that the Town adopt the following procurement policies and procedures:

- I. CONTRACTS SUBJECT TO COMPETITIVE BIDDING AND EXCEPTIONS TO COMPETITIVE BIDDING
 - A. CONTRACTS SUBJECT TO COMPETITIVE BIDDING
 - 1. All contracts for public work involving an expenditure of more than thirty-five thousand dollars (\$35,000.00) (GML § 103(1)); and
 - 2. All purchase contracts involving an expenditure of more than twenty thousand dollars (\$20,000.00) (GML § 103(1)).
 - B. EXCEPTIONS TO COMPETITIVE BIDDING
 - 1. Contracts for public work involving an expenditure of thirty-five thousand dollars (\$35,000.00) or less (GML § 103(1))
 - 2. Purchase contracts involving an expenditure of twenty thousand dollars (\$20,000.00) or less (GML § 103(1))
 - 3. Purchases through a County Contract (GML § 103(3))
 - a. The Town may make purchases, or may contract for services, when available, through Saratoga County or through any county within the state subject to the rules set forth in GML § 103(3) and County Law § 408-a(2).
 - 4. Purchases through the New York State Office of General Services (GML § 104)
 - a. The Town may make purchases of materials, equipment, food products, supplies or services through the New York State Office of General Services subject to the rules set forth in GML § 104, State Finance Law § 163 and State Finance Law § 167.
 - 5. Emergency Purchases (GML § 103(4))
 - a. Competitive bidding is not required in the case of a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants

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of the Town requires immediate action which cannot await public bidding.

6. Purchases of Surplus and Second Hand Supplies (GML § 103(6))
 - a. Surplus and second-hand supplies, material or equipment may be purchased without competitive bidding from the federal government, the state of New York, or from any other political subdivision, district or public benefit corporation without competitive bidding.
7. Sole-Source Contracts
 - a. When there is only one possible source to procure goods and/or services, competitive bidding is not required.
8. Purchases or Leases of Real Estate
9. Professional Services
10. Leases of Equipment
11. Purchases of Articles Manufactured in a New York State Correctional Facility (GML § 104-b(2)(b); Correction Law § 186)

Purchases from Agencies for the Blind or Severely Handicapped (GML § 104-b(2)(b))

II. POLICIES AND PROCEDURES FOR PURCHASES OF GOODS OR SERVICES THAT ARE NOT SUBJECT TO COMPETITIVE BIDDING REQUIREMENTS

A. PURPOSES OF GML § 104-b

“Goods and services which are not required by law to be procured [by the Town] 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 interests of the taxpayers of [the Town], 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.” (GML § 104-b(1)).

B. PROCUREMENT PROCEDURES

1. Determination Regarding Purchase (GML §104-b(2)(a))
 - a. Every prospective purchase of goods or services shall be evaluated by the Town Board to determine whether competitive bidding is required pursuant to Section I above.
 - b. In making this determination, the Town Board shall consider the reasonably expected aggregate amount of all purchases of the same commodities, services or technology to be made within the twelve-month period commencing on the date of purchase. (GML § 103(1)).
 - c. Purchases of commodities, services or technology shall not be artificially divided for the purpose of avoiding the competitive bidding threshold amount. (GML § 103(1)).
 - d. A change to or a renewal of a purchase shall not be permitted if the change or renewal would bring the reasonably expected aggregate amount of all purchases of the same commodities, services or technology from the same provider within the twelve-month period commencing on the date of the first purchase to an amount greater than the

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competitive bidding threshold amount. (GML § 103(1)).

2. Documenting Basis for Determination (GML §104-b(2)(a))
 - a. If the Town Board determines that competitive bidding is not required, it shall document its basis for such determination. The Town Board shall document:
 - i. the dollar amount of the prospective purchase;
 - ii. when applicable, the dollar amounts for similar prior purchases;
 - iii. when items are not subject to competitive bidding for reasons other than the dollar amount, the relevant exception and the underlying facts justifying the exception's applicability; and
 - iv. Any other documentation that the Town Board deems relevant to its determination.
3. Securing Proposals when Competitive Bidding Requirements do not Apply (GML §104-b(2)(b))
 - a. General Policy and Statutory Exceptions from These Policies and Procedures
 - i. Except for procurements made pursuant to GML § 103(3) (through county contracts), GML § 104 (through state contracts), State Finance Law § 175-b (from agencies for the blind or severely handicapped) and Correction Law § 186 (for articles manufactured in correctional institutions), alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals, written quotations, verbal quotations or any other method of procurement which furthers the purposes of GML § 104-b, as set forth in Section II(A) above.
 - b. Methods of Procurement for Purchases Pursuant to this Section II(B) (GML §104-b(2)(c))
 - i. The methods of procurement set forth in this Section II (B)(3)(b) take into account the purposes of GML § 104-b and the cost-effectiveness of each method.
 - ii. Methods of procurement for contracts for public work involving an expenditure of thirty-five thousand dollars (\$35,000.00) or less
 - (1) Contracts between \$10,000.00 and \$35,000.00
 - (a) Written request for proposals ("RFP") with at least four (4) responding vendors
 - (2) Contracts between \$3,000.00 and \$9,999.99
 - (a) Written/faxed quotations from at least three (3) vendors
 - (3) Contracts between \$500.00 and \$2,999.99
 - (a) Verbal quotations from at least three (3) vendors
 - (4) Contracts between \$0.00 and \$499.99
 - (a) The Town Official, in its discretion, may use any procedures that further the purposes of GML § 104-b, as set forth in Section II(A) above.
 - iii. Methods of procurement for purchase contracts involving an expenditure of twenty thousand dollars (\$20,000.00) or less
 - (1) Contracts between \$10,000.00 and \$20,000
 - (a) Written request for proposals ("RFP") with at least four (4) responding vendors
 - (2) Contracts between \$3,000.00 and \$9,999.99

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- (a) Written/faxed quotations from at least three (3) vendors
 - (3) Contracts between \$500.00 and \$2,999.99
 - (a) Verbal quotations from at least three (3) vendors
 - (4) Contracts between \$0.00 and \$499.99
 - (a) The Town Official, in its discretion, may use any procedures that further the purposes of GML § 104-b, as set forth in Section II(A) above.
 - iv. A good faith effort shall be made to obtain the number of proposals or quotations required by this Section II(B)(3)(b). If the Town is unable to obtain the required number of proposals or quotations, the Town shall document its attempt to do so. An inability to obtain the required number of proposals or quotations shall not preclude procurement provided that the Town documents its good faith attempt to obtain such proposals or quotations.
- c. Adequate Documentation of Purchases Pursuant to this Section II(B) (GML §104-b(2)(d))
 - i. When a purchase is made pursuant to this Section II(B), the following documents shall be maintained in a file with the purchase documents (i.e., final purchase contract, invoices, bills, etc.):
 - (1) A copy of the RFP and all responding proposals, if applicable;
 - (2) A copy of all written quotations, if applicable;
 - (3) Notes of any verbal quotations, if applicable;
 - (4) Any documentation indicating Town Board's furtherance of the purposes of GML § 104-b, as set forth in Section II(A) above; and
 - (5) Any other documentation that the Town Board deems relevant to the selection of a proposal
 - ii. If full compliance with Section II(B)(3)(c)(i) above is not practical, the file containing the purchase documents shall include a memorandum explaining why such documents were excluded.
- d. Contracts Awarded to anyone other than the Lowest Responsible Dollar Offeror (GML §104-b(2)(e))
 - i. If the Town awards a contract pursuant to this Section II to anyone other than the lowest responsible dollar offeror, it shall document its justification for doing so, setting forth the reasons why such an award furthers the purposes of GML § 104-b, as set forth in Section II(A) above.
4. Individuals Responsible for Purchasing (GML §104-b(2)(f))
 - a. The following individual(s) are responsible for purchasing (this list shall be updated biennially):
 - i. _____
Name Title
 - ii. _____
Name Title
 - iii. _____
Name Title

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iv. _____
Name Title

v. _____
Name Title

5. Exceptions from Policies and Procedures in this Section II (GML §104-b(2)(g))

a. The procurement policies and procedures of this Section II are not necessary in the following circumstances, or for the following types of procurements, as the solicitation of alternative proposals or quotations for contracts in such circumstances, or for such types of procurements, are not in the best interest of the Town:

i. Emergencies

(1) The Town Supervisor will determine whether an emergency exists and will make a good faith effort to poll the Town Board in advance of a purchase. However, the entire Town Board shall be contacted immediately regarding the emergency. If the Town Supervisor is not available, then the Deputy Town Supervisor may make this determination.

ii. Procurements of sole source purchases

iii. Procurements of professional services

iv. Procurements for which solicitation would not be cost-effective

(1) When procuring contracts with an expenditure between \$0.00 and \$499.99, the Town need not comply with the policies and procedures of this Section II if doing so would not be cost-effective.

6. Comments from Officers (GML §104-b(3))

Comments concerning the Town's policies and procedures shall be solicited from officers of the Town involved in the procurement process prior to the enactment of the policies and procedures, and from time to time thereafter.

7. Annual Review (GML §104-b(4))

The Town Board shall annually review its policies and procedures.

8. Unintentional Failure to Comply (GML §104-b(5))

The unintentional failure to fully comply with the provisions of GML § 104-b shall not be grounds to void action taken or give rise to a cause of action against the Town or any officer or employee thereof.

9. Intentional Failure to Comply

Town officers or employees who intentionally fail to fully comply with the provisions of GML §104-b or this policy shall be subject to appropriate disciplinary measures up to and including termination of employment in accordance with legal guidelines, collective bargaining agreements, if applicable, and Town policy and procedures.

10. Legal Issues

The Town Board shall present any legal issues regarding the procurement policies and procedure set forth herein to the Town's Counsel.