

PART I – ADMINISTRATIVE LEGISLATION

Chapter 19 – Finance – Procurement and Investment

[Adopted, December 27, 2012, as Chapter 19 of the Code]

Article I	Procurement Guidelines	Sections 19-1 – 19-10
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Article I Procurement Guidelines

Section 19-1 – Intent – Since January 1, 1992, local governments in New York State have been required to adopt written procurement policies and procedures for purchase and contracts for services that are not subject to competitive bidding (GML 104b). This chapter includes those guidelines for the procurement of purchases by the Village of Marcellus. Each Department head must adhere to these guidelines, which are reviewed annually at the Board of Trustees organizational meeting.

Sections 19-2 – Initial Resolution – At a regular board meeting of the Village Board of Trustees of the Village of Marcellus, Onondaga County, New York, held at the Village Hall, 6 Slocombe Avenue, Marcellus, New York on the 22nd day of March 1993, at 7:30 p.m. prevailing time.

The meeting was called to order by Mayor Sennett and upon a roll call being called the following were:

PRESENT: Mayor Martin J. Sennett
Trustee Barbara S. Bishop
Trustee Edwin H. Grant

The following resolution was offered by Trustee Grant, who moved its adoption, seconded by Trustee Bishop, to-wit:

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

WHEREAS, comments have been solicited from those officers of the Village involved with procurement;

NOW THEREFORE. BE IT RESOLVED: That the Village of Marcellus does hereby adopt the following procurement policies and procedures:

Section 19-3 – Guidelines – include the following:

Guideline 1. Every prospective purchase of goods or services shall be evaluated to determine the applicability of Section 103 (competitive bidding). Every Village officer, board, department head or other personnel with the requisite purchasing authority (hereinafter Purchaser) shall estimate the cumulative amount of the items of supply the canvass of other village departments of 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. All purchases of a) supplies or equipment which will exceed \$20,000 in the fiscal year or b) public works contracts over \$35,000 shall be formally bid pursuant to GML 103.

Guideline 3. All estimated purchases of:

a. Less than \$20,000, but greater than \$10,000 require a written request for a proposal (RFP) and written quotes from 3 vendors. Less than \$10,000, but greater than \$1,000 require an oral request for the goods and oral or written quotes from 2 vendors. Less than \$1,000, but greater than \$200, are left to the discretion of the Purchaser.

b. All estimated public works contracts of:

(1) Less: than \$35,000, but greater than \$10,000, require a written (RFP) and written quotes from 3 contractors.

(2) Less than \$10,000, but greater than \$3,000, require a written (RFP) and oral or written quotes from 2 contractors.

(3) Less than \$3,000, but greater than \$500, are left to the Purchaser

c. Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The Purchaser shall compile a list of all vendors from whom written/oral quotes have been requested and the written/oral quotes offered.

d. All information gathered in complying with the procedures of the Guideline shall be preserved and filed with the documentation supporting the subsequent purchase and public works contract.

Guideline 4. The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the Purchaser prepares a written justification providing reasons why it is in the best interest of the Village and its taxpayers to make an award to other than the low bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

Guideline 5. 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 6. In those situations when competitive bidding is not required, except when directed by the Village Board, no solicitation of written proposals or quotations shall be required under the following circumstances:

- a) Acquisition of professional services
- b) Emergencies (must be documented)
- c) Sole source situations
- d) Goods purchased from agencies for the blind or severely handicapped
- e) Goods purchased from correctional facilities
- f) Goods purchased from another governmental agency
- g) Goods purchased at auction
- h) Goods purchased for less than \$200.00
- i) Public works contracts for less than \$500.00

Guideline 7. This policy shall be reviewed annually by the village board at its organizational meeting or as soon thereafter as is reasonably practicable.

Sections 19-4 – 19-10 – Reserved

Article II Investment Policy

Section 19-11 – Scope – This investment policy applies to all moneys and other financial resources available for investment on the Village's own behalf or on behalf of any other entity or individual.

Section 19-12 – Objectives – The primary objectives of the local government's investment activities are, in priority order:

- A. To conform to all applicable federal, state and other legal requirements (legal);
- B. To adequately safeguard principal (safety);
- C. To provide sufficient liquidity to meet all operating requirements (liquidity); and
- D. To obtain a reasonable rate of return (yield).

Section 19-13 – Delegation of Authority – The governing board's responsibility for administration of the investment program is delegated to the chief fiscal officer and other officers having custody of money, who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on a database or records incorporating description and amounts of investments, transaction dates, and other relevant information and regulate the activities of subordinate employees.

Section 19-14 – Prudence

- A. All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the Village to govern effectively.
- B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.
- C. All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions.

Section 19-15 – Diversification – It is the policy of the Village to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.

Section 19-16 – Internal Controls

- A. It is the policy of the Village for all moneys collected by any officer or employee of the government to be transferred to the chief fiscal officer within 30 days of deposit or within the time period specified in law, whichever is shorter.
- B. The chief fiscal officer and other officers having custody of money are responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly and are managed in compliance with applicable laws and regulations.

Section 19-17 – Designation of Depositories – The banks and trust companies authorized for the deposit of moneys shall be designated at the organizational meeting.

Section 19-18 – Collateralizing of Deposits – In accordance with the provisions of General Municipal Law § 10, all deposits of Village, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act may be secured in one of the following ways:

- A. By a pledge of eligible securities with an aggregate market value, as provided by General Municipal Law § 10, equal to the aggregate amount of deposits held by financial institutions in the name of the Village of Marcellus.
- B. By an eligible irrevocable letter of credit issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed-upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least on nationally recognized

statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.

C. By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed-upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

Section 19-19 – Safekeeping and Collateralization

A. Eligible securities used for collateralizing deposits shall be held by the depository and/or a third party bank or trust company subject to security and custodial agreements.

B. The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed-upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Village or its custodial bank.

C. The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

Section 19-20 – Permitted Investments

A. As authorized by General Municipal Law § 11, the Board of Trustees authorizes the chief fiscal officer and other officers having custody of money to invest moneys not required for immediate expenditure for terms not to exceed projected cash flow needs in the following types of investments:

- (1) Special time deposit accounts
- (2) Certificates of deposit
- (3) Obligations of the United States of America
- (4) Obligations guaranteed by agencies of the United States of America where the payment of principal and interest is guaranteed by the United State of America
- (5) Obligations of the State of New York

- (6) Obligations issued pursuant to Local Finance Law § 24.00 or 25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the Village
- (7) Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general state statutes governing such entities or whose specific enabling legislation authorizes such investments
- (8) Certificates of participation (COPs) issued pursuant to General Municipal Law § 109-b
- (9) Obligations of this local government, but only with any moneys in a reserve fund established pursuant to General Municipal Law § 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m or 6-n.

B. All investment obligations shall be payable or redeemable at the option of the Village within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Village within two years of the date of purchase.

Section 19-21 – Authorized Financial Institutions and Dealers – The Village shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be credit worthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the Village. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers. The chief fiscal officer and other officers having custody of money are responsible for evaluating the financial position and maintaining a listing of proposed depositaries, trading partners and custodians. Such listing shall be evaluated at least annually.

Section 19-22 – Purchase of investments

A. The chief fiscal officer and other officers having custody of money are authorized to contract for the purchase of investments:

- (1) Directly, including through a repurchase agreement, from an authorized trading partner.
- (2) By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5-G of the General Municipal Law where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46 and the specific program has been authorized by the governing board.
- (3) By utilizing an ongoing investment program with an authorized tracking partner pursuant to a contract authorized by the governing board.

B. All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust

company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the office authorized to make the investment. All such transactions shall be confirmed in writing to the Village by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law § 10.

C. The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

Section 19-23 – Repurchase Agreements – Repurchase agreements are authorized subject to the following restrictions:

- A. All repurchase agreements must be entered into subject to a master repurchase agreement.
- B. Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
- C. Obligations shall be limited to obligations of the United States of America and obligations of agencies of the United States of America where principal and interest are guaranteed by the United States of America.
- D. No substitution of securities will be allowed.
- E. The custodian shall be a party other than the trading partner,

Section 19-24 – Section 19-25 – Reserved

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