



PROCUREMENT POLICIES AND PROCEDURES MANUAL



**TOWN OF LEESBURG, VIRGINIA
25 W. MARKET STREET
LEESBURG, VIRGINIA 20176**

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SECTION 1 GENERAL PROVISIONS

1.1 Purpose

The Town has adopted the provisions of the Virginia Public Procurement Act (“VPPA”), and the policies and procedures herein were developed pursuant to, Sections 2.2-4300 through 2.2-4383 of the VPPA and are intended to provide the framework to maintain a strong public confidence in the integrity of public procurement, promote competition, and obtain the most favorable price for the purchase of needed goods and services by the Town.

1.2 Authority

Section 2.2-4302 of the VPPA allows public bodies to act through their duly designated or authorized officers or employees to develop and adopt certain administrative policies and procedures for the purpose of clearly defining the procurement processes for the locality. All appointed with authority within the procurement process have the combined responsibility of promoting the best interests of the Town of Leesburg, while maintaining fair and open competition.

Town Council is the governing body of the Town of Leesburg, Virginia.

Town Manager or designee(s) shall exercise overall responsibility for the conduct of the Town’s procurement process through the Director of Finance and Administrative Services and makes administrative changes to the Procurement Policies and Procedures Manual. Only the Town Manager or designee(s) is authorized to execute contracts which bind the Town for the purchase of goods, services, insurance, or construction.

Director of Finance and Administrative Services or designee(s) shall direct and have the general supervision of the Procurement Office. The Director of Finance and Administrative Services or designee(s) shall certify that the estimated amount of money or funding required to purchase the goods, services, insurance or construction necessary by the Town has been lawfully budgeted and appropriated.

Chief Procurement Officer or designee(s) shall serve as the purchasing agent for the Town with the authority and responsibility to manage, observe, and enforce the policies and procedures adopted herein, along with concurrence of the Town Manager. The Chief Procurement Officer or designee(s) shall ensure that all procurement transactions are conducted in a fair and impartial manner; ensure that competition is sought to the maximum feasible degree and in the best interests of the Town; serve as the designed official for all procurement protest activities under the Code of Virginia Section 2.2-4360; and ensure that appropriate Town personnel are trained and have access to the Town’s Procurement Policies and Procedures Manual.

Department Director or designee(s) shall exercise the authority and responsibility to ensure compliance by the personnel of their department with the procurement policies and procedures herein; ensure that procurements are made for authorized official Town business and within the budgetary limits approved by Town Council; ensure that all goods, services, or construction purchased are properly inspected, accepted, and conform to the purchase order specifications and terms and conditions; enforce delegated procurement responsibility within the limits of the policies and procedures established herein; and ensure that the appropriate personnel of their department attend procurement training and have read and understood to the Town’s Procurement Policies and Procedures Manual.

1.3 Procurement Mission Statement

The Procurement Office is committed to achieving cost-effective and economical acquisition of goods, services, insurance, and construction necessary by the Town while ensuring that contract awards are made in a fair and equitable manner with the avoidance of impropriety or appearance of impropriety. As stewards to the taxpayers of the Town of Leesburg, the Procurement Office is charged with the duty to provide value added services, through innovation and the use of technology, to achieve greater efficiency, transparency, and other cost savings in the Town’s procurement process. In all procurement transactions, the Procurement Office seeks to preserve the highest standards of accountability, efficiency, ethics, impartiality, transparency, and professionalism.

1.4 Public Notice of Procurement Opportunities

Notices of contracting opportunities are posted on the Town’s Bid Board (<https://www.leesburgva.gov/departments/finance/procurement/bid-board>), on the Commonwealth of Virginia’s electronic procurement website (<https://eva.virginia.gov/>), and on the Procurement Notice Board in a designated public area located at 25 W. Market Street, Leesburg, VA 20176. In addition, public notices may be published in a newspaper of general circulation or other appropriate websites.

1.5 Electronic Bidding

To take advantage of efficiencies afforded by new technologies, with the approval of the Town Manager and the Town Attorney, the Procurement Office may establish from time to time procedures for conducting procurement transactions to permit: (1) any solicitation to be issued; (2) any bid, offer, or quote to be submitted; or (3) any procurement process authorized in this Procurement Policy to be accomplished, using electronic or other technological means, provided that such means are permitted by the VPPA and other law or regulation applicable to the procurement process at the time such procedures are adopted, and provide sufficient security, reliability, identification

and verifiability. Notice of all such procedures shall be posted in accordance with Section 1.4 for a reasonable period in advance of their effective date.

1.6 Procurement Procedures Manual

Town of Leesburg employees can access additional policy guidance, detailed processes, authorized solicitation templates, charts, checklists, and forms on the Town's Employee Portal: <https://employee.leesburgva.gov/DEPARTMENTS/Finance/Procurement>.

SECTION 2 PROCUREMENT POLICIES

All public contracts with nongovernmental contractors for the purchase or lease of goods, services, insurance or construction, shall be awarded after competitive sealed bidding or competitive negotiation pursuant to the VPPA and approved optional policies contained herein, unless otherwise authorized or exempted by law or regulation. These policies and procedures apply to all procurements whether the consideration is monetary or nonmonetary and regardless of whether the Town, the contractor, or some third party is providing the consideration, except those specifically exempted in the VPPA or herein. Nothing contained in this policies and procedures manual shall prevent the Town from complying with the terms and conditions of any state or federal funding regulations, grant, gift, or bequest.

2.1 Conflict of Interest and Ethics in Public Procurement

It is the policy of the Town of Leesburg to preserve the integrity of the public procurement process by ensuring public confidence that contracts are awarded in a fair and equitable manner. Pursuant to the Article 6 of the VPPA (§2.2-4367), and the State and Local Government Conflict of Interest Act (§2.2-3100 et seq.), all Town employees having the official responsibility for a procurement transaction shall comply with this section. These provisions supplement applicable criminal law, including the Virginia Government Frauds Act (§18.2-498.1 et seq.) and Articles 2 (Bribery and Related Offenses, §18.2-438 et seq.) and 3 (Bribery of Public Servants and Party Officials, §18.2-446 et seq.) of Chapter 10 of Title 18.2.

1. Procurement Transactions

Unless otherwise allowed under the State and Local Government Conflict of Interest Act §2.2-3112(B), no Town employee shall participate in a transaction on behalf of the Town when:

- a. The employee is contemporaneously employed by a bidder, offeror, or contractor involved in the procurement transaction;
- b. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;
- c. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction;

- d. The employee, the employee's partner, or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

2. Solicitation or Acceptance of Gifts

No Town employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

3. Kickbacks

Contractors, subcontractors, and interested persons participating in a procurement transaction on behalf of the Town shall conduct themselves in accordance with the following requirements:

- a. No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontractor or order, any payment, loan, subscription, advance, deposit of money, services or anything present or promised, unless consideration of substantially equal or greater value is exchanged.
- b. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.
- c. No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a Town contract.
- d. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and will be recoverable from both the maker and the recipient. Recovery from one offending party shall not preclude recovery from offending other parties.

4. Solicitation Preparation & Evaluation

No person who, for compensation, prepares a solicitation for or on behalf of the Town shall submit a bid or proposal for that procurement or any portion thereof or shall disclose to any bidder or offeror information concerning the procurement which is not available to the public. The Town may permit such person to submit a bid or proposal for that procurement or any portion thereof if the Town determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the Town.

Town employees having official responsibility for a procurement transaction shall not share bid or proposal information with any interested parties of the public prior to the award for the contract and/or purchase order.

5. Certification of Compliance

The Town may require Town employees having official responsibility for procurement transactions in which they have participated to annually submit for such transactions a written certification that they have complied with the provisions of Section 2.1. Employees already required to submit Conflict of Interest forms to the Town Clerk on an annual basis will not be required to make a separate certification under this Section 2.1. Any Town employee who knowingly makes a false statement in such certification may be subject to penalties set forth in VPPA §2.2-4377, including criminal fines or penalties and forfeiture of employment.

6. Violations for Penalties

The penalties for violations of any of the provisions of this Policy are provided in the Section 10 of this Policy and VPPA §2.2-4377.

2.2 Contract Execution Policy

The Procurement Office, a division within the Department of Finance and Administrative Services, is responsible for administering the Town's public procurement process in accordance with the policies and procedures established herein.

Town Council is the governing body of the Town of Leesburg, Virginia. Town Council approval is required for all contracts with a total contract amount of \$200,000 or more. The aggregate or sum of all phases for single or term contracts shall be included in the total value. Town Council approval is required for all unbudgeted contracts regardless of the contract amount. Except as otherwise authorized in the policies and procedures established herein, no contract in excess of \$200,000 shall be effective unless approved by Town Council, specifically delegated to the Town Manager by Town Council

resolution, or otherwise preapproved or evergreen renewing by Town Council resolution.

Town Manager or designee(s) is authorized to execute contracts which bind the Town for the purchase of goods, services, insurance or construction. The Town Manager or designee(s) shall have the authority to award, execute, and amend contracts where the total contract amount is \$200,000 or less. The Town Manager is authorized to execute contracts in a form approved by the Town Attorney resulting from procurements totaling over \$200,000 after Town Council award approval is obtained via resolution. The aggregate or sum of all phases for single or term contracts shall be included in the total value. The Town Manager or designee(s) shall have the authority to terminate any contract for convenience, cause, or for non-appropriation of funds in accordance with the contract terms and after advisement from the Town Attorney.

Chief Procurement Officer or designee(s) is the designated purchasing agent and is authorized to execute contracts which bind the Town for the purchase of goods, services, insurance or construction. The Chief Procurement Officer or designee(s) is authorized within authority delegated by the Town Manager to execute contracts in a form approved by the Town Attorney resulting from procurements totaling \$30,000 or less. The aggregate or sum of all phases for single or term contracts shall be included in the total value. The Chief Procurement Officer or designee(s) shall have the authority to award, execute, and amend contracts resulting from procurements totaling up to \$30,000. The Chief Procurement Officer or designee(s) shall have the authority to terminate any contract within the Chief Procurement Officer's execution authority, for convenience, cause, or for non-appropriation of funds in accordance with the contract terms and after advisement from the Town Attorney.

Director of Finance and Administrative Services or designee(s) by authorizing requisitions and subsequent purchase orders shall certify that the estimated amount of money or funding required to purchase the goods, services, insurance or construction necessary by the Town has been lawfully budgeted and appropriated for all contracts. All procurement requisitions that pass the budget availability check at the two-digit level of object (e.g. 52xxxx) are within the approved budget appropriation and do not require additional approval. Procurements that would cause the actual cost to be over budget at the two-digit level of account, must either have budget transferred from another budget with approval of the Budget Officer and the Town Manager (or designee) or have additional funding appropriated by Town Council.

Department Director or designee(s) is not authorized to execute contracts or task orders which bind the Town for the purchase of goods, services, insurance or construction unless a written exception and delegation is given by the Town Manager during an official declared emergency. Department Director or designee(s) is authorized to execute change orders to existing contracts, within the authorized contractual limits and change order dollar amounts.

Town Attorney or designee(s) shall approve as to form all contracts executed on behalf of the Town of Leesburg, except as follows: the Chief Procurement Officer or designee(s) may execute low-risk contracts under the Town's single quote threshold of \$5,000, provided that such contracts do not contain terms that are ambiguous, unclear, or novel, and that the terms of such contracts are consistent with the Town's general terms and conditions as related to the such contract clauses as the Town Attorney or designee(s) may identify from time to time, including but not limited to: governing law and court jurisdiction, indemnification, limitation of liability, waiver, and alternative dispute resolution.

2.3 Grant Administration Policy

It is the policy of the Town of Leesburg to administer and expend grant funds in accordance with the Town of Leesburg's Grant Administration Policies and Procedures adopted May 15, 2018. Grant procurements must be compliant with this policy to the extent that this policy does not contradict any state or federal grant regulatory provisions or any particular provision of the grant agreement. A copy of the Town's Grant Administration Policies and Procedures can be found on the Town's Accounting Website: <https://www.leesburgva.gov/government/departments/finance/accounting>.

2.4 Inclement Weather or Closed Office Policy

It is the policy of the Town of Leesburg to administer the public procurement process in a fair and equitable manner. Should the Town of Leesburg close offices due to inclement weather or other unforeseen event or emergency on a date that bids and/or proposals are due, those bids and/or proposals will be due on the next "full" (8:30 a.m. to 5:00 p.m.) business day at the same time specified in the solicitation.

2.5 Public-Private Education Facilities and Infrastructure Act and Public-Private Transportation Act Policy

It is the policy of the Town of Leesburg to administer the process and selection of projects subject to the Public-Private Education Facilities and Infrastructure Act of 2002 (Va. Code §§ 56-575.1, et seq.) ("PPEA") and the Public-Private Transportation Act of 1995 (Va. Code §§ 56-556, et seq.) ("PPTA"), in accordance with the Town's PPEA and PPTA Combined Guidelines, which can be found on the Town's Procurement Website: <https://www.leesburgva.gov/departments/finance/procurement>.

2.6 Purchase Order Requisitions

A purchase order (PO) requisition is generated in the Town financial system and serves as the tool in which departments inform the Procurement Office of its procurement needs. A PO requisition pre-encumbers the required funds, identifies the funding source, and certifies that sufficient funds are available. PO requisitions shall include all pertinent purchasing documentation and be reviewed and approved by authorized Town staff and the Department Director or designee(s). The following approval authority shall be followed for all PO requisitions:

1. *Purchases less than \$5,000* must be authorized by a Department Director or designee(s) and one (1) Procurement Official (Buyer or Senior Buyer or Chief Procurement Officer). It is recommended that a purchase card be used to the extent possible for these purchases.
2. *Purchases greater than or equal to \$5,000 and less than \$30,000* must be authorized by a Department Director or designee(s) and a Procurement Official (Buyer or Senior Buyer or Chief Procurement Officer).
3. *Purchases greater than or equal to \$30,000 and less than \$50,000* must be authorized by the Department Director or designee(s), a Procurement Official (Buyer or Senior Buyer or the Chief Procurement Officer), and the Director of Finance and Administrative Services or designee(s).
4. *Purchases greater than \$50,000* must authorized by the Department Director or designee(s), a Procurement Official (Buyer or Senior Buyer or the Chief Procurement Officer), the Director of Finance and Administrative Services or designee(s), and the Town Manager or designee(s). For purchases greater than \$200,000, a Council resolution authorizing the award of the purchase shall be included with the purchasing documentation attached to the requisition.

2.7 Purchase Order Policy

Unless otherwise permitted by law, every expenditure of Town funds shall be in writing, in the form of a purchase order or contract, unless it falls within the Purchase Card Policy limits and guidelines or is processed as an operational invoice under established payment procedures or under regulatory authority (e.g. VRS contributions, health insurance payments, payments to Loudoun County or other unit under an MOA, payments under trust arrangements, utility or tax refunds, tax payments, etc.). A purchase order is a legally binding contract, issued by the Procurement Office, which

authorizes the vendor/contractor to ship goods or render services as specified. A purchase order must be issued by the Procurement Office BEFORE goods are ordered or services are rendered.

The Town's Purchase Order Terms and Conditions, included as Appendix C to this Policy, shall be used by all Town employees who have the responsibility for a procurement transaction. Unless agreed to otherwise in writing, all vendors who wish to do business with the Town must adhere to the Purchase Order Terms and Conditions. Because vendor acknowledgement forms may contain terms and conditions that differ from those in the purchase order, may supersede the Purchase Order Terms and Conditions, and may not be in the best interest of the Town, Town representatives may not sign vendor acknowledgement forms without the approval of the Procurement Office. Please contact the Procurement Office if a contractor refuses to ship or confirm an order without a signed acknowledgment.

2.8 Small Purchase Policy

Pursuant to VPPA §2.2-4303(G), the purchasing procedures set forth below shall be followed for purchases not requiring competitive sealed bids or competitive negotiation purchases that are not expected to exceed the corresponding purchase dollar amount thresholds established herein. These procedures shall apply for single or term contracts, and the aggregate or sum of all phases for single or term contracts shall be included in the total contract amount. Purchases may not be arbitrarily split to constitute a small purchase. Nothing in this Small Purchase Policy shall prevent the use of competitive sealed bidding or competitive negotiation in procurements less than the VPPA formal solicitation limit if properly documented and deemed appropriate by the Chief Procurement Officer or designee(s).

1. Purchasing Thresholds

Type of Purchase	Estimated Contract Amount	Competitive Quote Requirement
Goods, construction, insurance and other than professional services	Single or spot purchases \$0 - \$4,999	One (1) single quote
	Single or spot purchases \$5,000 - \$49,999	Three (3) written quotes
	Single or spot purchases \$50,000 - \$200,000 (VPPA formal solicitation limit)	Four (4) written quotes
	Multi-year or term purchases \$0 – \$200,000 (VPPA formal solicitation limit)	Written informal/unsealed solicitation
Transportation-related Construction	Single or spot purchases \$0 - \$25,000 (VPPA formal solicitation limit)	Three (3) written quotes
	Multi-year or term purchases \$0 – \$25,000 (VPPA formal solicitation limit)	Written informal/unsealed solicitation
Professional Services	Single or spot purchases <u>and</u> multi-year or term purchases \$0 - \$80,000 (VPPA formal solicitation limit)	Written informal/unsealed solicitation

2. Quote Documentation

Price quotes are to be obtained from the number of required sources as identified in the purchasing thresholds, as it is practicable. If the number of required written quotes cannot be obtained, a written justification for lack of competitive quotes is required. Verbal quotes are acceptable in lieu of a written quote, provided all pertinent information is properly documented. Proper documentation includes: item description, date and time of quotation, company name, quoted unit and extended price, and name of authorized representative providing the quotation. Telephone quotations, catalogue comparisons, written quotes or other similar quotes may be obtained, as is practicable. Purchases made within this Small Purchase Policy may be made using the Town's Purchase Card Policy. For purchases within the Purchase Card Policy, please refer to Section 4 Purchase Card Policy.

3. Public Posting Requirements

All written informal solicitations shall be posted on the Town of Leesburg's Bid Board (<https://www.leesburgva.gov/bidboard>) and/or the Commonwealth of Virginia eProcurement website (<https://eva.virginia.gov/>).

4. Method of Award

For purchases of goods, construction, insurance, services other than professional services, and transportation-related construction, the award of the purchase shall be made to the bidder quoting the lowest price unless it is documented in writing that the award to another bidder quoting a higher price is in the best interest of the Town.

For purchases of professional services, the award of the purchase shall be made to the offeror whose proposal is in the best interest of the Town, in considering the Town's evaluation criteria set forth in the solicitation. Price can be considered at the proposal stage for purchases of professional services made under this Small Purchase Policy. Negotiations, although encouraged, is not required for purchases of professional services made under this Small Purchase Policy.

SECTION 3 METHODS OF PROCUREMENT

3.1 Cooperative Procurement

The Town shall have all cooperative procurement authority conferred by VPPA §2.2-4304. Pursuant to VPPA §2.2-4304, the Town may participate in, sponsor, conduct, or administer a joint procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia, the U.S. General Services Administration, or the Metropolitan Washington Council of Governments, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods, services, or construction.

In addition, the Town may purchase from another public body's contract or from the contract of the Metropolitan Washington Council of Governments or the Virginia Sheriffs' Association even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies, except for contracts for architectural/engineering services and construction. Nothing in this subsection shall be construed to prohibit sole source or emergency procurements awarded pursuant to VPPA §2.2-4303 (E) and §2.2-4303(F). Nothing in this subsection shall be construed to prohibit obtaining another quote to confirm that cooperative contract pricing is fair and reasonable for the Town. Purchasing from the contracts of other public bodies is not appropriate where the Procurement Office or the Town Attorney or designee(s) determines that the terms and conditions are inconsistent with the legal requirements and best interests of the Town.

3.2 Informal Solicitations Under Small Purchase Policy

Nothing in this Policy shall prevent the use of competitive sealed bidding or competitive negotiation in procurement less than the VPPA formal solicitation limit if properly documented and deemed appropriate by the Chief Procurement Officer or designee(s).

1. Request for Quotation (RFQ)

“Request for Quotation” means to request a quote from one or more vendors under an open market procurement where the estimated cost is less than the VPPA formal solicitation limit (generally \$200,000, see Section 2.7). This procurement method is the preferred method for single or spot purchases. A record of the quotation must be kept on file and should include: name and address of vendors contacted, the item description or service offered, price quoted, delivery date and other information such as F.O.B. point, names of persons giving and receiving the prices, and the date the quote was obtained. A

reasonable amount of time should be allowed for vendors to respond based on the nature of the procurement.

2. Informal Solicitation

An informal solicitation is the preferred method for procuring multi-year or term contracts for goods, services (other than Professional Services), insurance and non-transportation construction estimated at \$200,000 or less; an informal solicitation is the preferred method for professional services estimated \$80,000 or less. The aggregate or sum of all phases for single or term contracts shall be included in the total contract amount.

All purchases using this procurement method shall be processed by the Procurement Office with assistance from the lead department for specifications and expertise. The Town's general and any special terms and conditions that govern the purchase must be included in the unsealed invitation for bid or unsealed request for proposal. The informal solicitation shall be open for the period of time stated in the solicitation but must be open for at least three (3) business days. A reasonable amount of time should be allowed for vendors to respond based on the nature of the procurement and any subsequent amendments. Notice of the solicitation shall be posted on either the Town of Leesburg website or the Commonwealth of Virginia eProcurement website. All bids and proposals in response to the solicitation must be received at the designated location by the date and time specified in the solicitation. Responses may be opened and evaluated upon receipt.

The method of award for bids in response to an informal solicitation shall be made to the bidder quoting the lowest price unless it is documented in writing that the award to another bidder quoting a higher price is in the best interest of the Town. The method of award for proposals in response to an informal solicitation shall be made to the offeror whose proposal is in the best interest of the Town, in considering the Town's evaluation criteria set forth in the solicitation. Price can be considered at the proposal stage for purchases of professional services made under this Small Purchase Policy. Negotiations, although encouraged, are not required for purchases made under this Small Purchase Policy.

3.3 Invitation for Bid (IFB) or Competitive Sealed Bidding

An Invitation for Bid (IFB), also referred to as competitive sealed bidding, is a formal solicitation that contains specifications or scope of work, contractual terms and conditions, and any relevant requirements and information applicable to the procurement. In a competitive sealed bidding process, all bids must be held unopened until the date and time specified in the solicitation. The solicitation shall be posted on the Town of Leesburg's Bid Board (<https://www.leesburgva.gov/bidboard>) and the Commonwealth of Virginia eProcurement website (<https://eva.virginia.gov/>).

1. Qualifications of Potential Contractors

Pursuant to VPPA § 2.2-4302.1.1, unless the Town has provided for pre-qualification of bidders through a pre-qualification process, the IFB shall include a statement of any qualifications required of potential contractors.

2. Comments Concerning Specifications

Pursuant to VPPA §2.2-4316, unless otherwise instructed in the solicitation, the Procurement Office is the sole point of contact for questions or comments concerning specifications or other provisions in IFB. Questions or comments concerning specifications must be made in writing and received by the Town by the question deadline specified in the IFB, which shall be at least ten (10) calendar days prior to the bid due date. Any interpretation deemed to be material in nature or that alters the scope of the goods or services being requested will be expressed in the form of a written addendum. Such addendum will be posted on the Town's website and emailed to all properly registered bidders at least seven (7) calendar days prior to the bid due date. Verbal communications will not be binding.

3. Pre-Bid Conference

A pre-bid conference is held when requested by the lead department and/or as deemed appropriate by the Procurement Office. Generally, a pre-bid conference is conducted with bidders when the solicitation is complex, contains critical requirements, or requires a visit of the construction work site. The purpose of the pre-bid conference is to encourage competition through an increased understanding of the specifications and terms and conditions and provides an opportunity to clarify any requirements, eliminate potential ambiguities, and allows vendor input. Attendance at the pre-bid conference by the vendors may be optional or mandatory as stated in the solicitation. When mandatory attendance is required, only bids from those firms represented at the conference or site visit will be accepted. Any changes to the solicitation as a result of the pre-bid conference will be in the form of a written addendum posted on the Town's website or other appropriate websites.

4. Bid Receipt & Public Bid Opening

It is the responsibility of the bidder to assure that its bid is received by the Town prior to the date and time specified for the receipt of bids. Bids received after the time designed for receipt of bids will not be considered. Bids shall be opened publicly in the presence of one or more witness at the date and time specified in the IFB. The Procurement Office or department representative, whose duty it is to open bids, will conduct the public bid opening and will decide when the specified time has arrived. The Town is not responsible for the premature opening of any bids not properly addressed. A representative from the originating department should also be present to witness the bid opening. The amount of each bid, the name of the bidder, and such other relevant information shall be read aloud and recorded. Questions concerning the bids shall not be answered until after the bid evaluation from the Town is complete and an intent to award is made. Except when the Town decides not to accept any of the bids, within a reasonable time after the public bid opening and prior to the award, a tabulation of all bids received shall be made available to the public. Upon request, bid documents shall be available to any competitive sealed bidder for inspection. Bid documents shall be available for inspection by the general public only after award of the contract. Any request to inspect bid records shall be in accordance with VPPA §2.2-4342.

5. Negotiation with the Lowest Responsible Bidder

Pursuant to VPPA §2.2-4318, if the bid from the lowest responsible bidder exceeds available funds, the Town may negotiate with the apparent low bidder to obtain a contract price with available funds if the solicitation contains the following clause:

“Unless all bids are cancelled or rejected, the Town reserves the right granted by Section 2.2-4318 of the Code of Virginia to negotiate with the lowest responsive, responsible bidder to obtain a contract price within the funds available. For the purpose of determining when such negotiations may take place, the term “available funds” shall mean those funds which were budgeted by the Town for this contract prior to the issuance of the written Invitation to Bid. Negotiations with the low bidder may include both modifications of the bid price and the Scope of Work/Specifications to be performed. The Town shall initiate such negotiations by written notice to the lowest responsive, responsible bidder that its bid exceeds the available funds and that the Town wishes to negotiate a lower contract price. The times, places, and manner of negotiating shall be agreed to by the Town and the lowest responsive, responsible bidder.”

This clause may be used only in an Invitation to Bid (IFB) for goods or services in those circumstances where, due to unknown cost factors, there may be a need to negotiate to remain within available funds. This clause shall not be used as a matter of routine.

If the Chief Procurement Officer or designee(s) decides to negotiate in such circumstances, the decision must be documented in writing in advance of the negotiations. Otherwise, unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted. "Available funds" are those budgeted by the Town for the requirement and designated as such prior to the issuance of the IFB. The purpose of this provision is not to force a bidder to take a lower price but rather to negotiate an acceptable change in requirements, including price, that is agreeable to both parties. Negotiations might include an extended delivery date, reduced quantity, different accessories, etc., with a corresponding reduction in price.

6. Withdrawal of Bid Due to Error

Pursuant to VPPA §2.2-4330, no bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

If the Town denies the request for withdrawal of a bid under the provisions of this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsive and responsible bidder. No bid may be withdrawn when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent. If a bid is withdrawn, the lowest remaining bid shall be deemed to be the apparent low bid.

- a. *Withdrawal of Bid PRIOR to Bid Opening:* A bid may be withdrawn by a bidder if the Chief Procurement Officer receives such a request in writing prior to the receipt date and time for bids. The request must be submitted by a person authorized to represent the person or firm that submitted the bid/proposal.
- b. *Amendments of Bid PRIOR to Bid Opening:* Due to the nature of the competitive sealed bidding, amendments to bids already submitted to the Town are not authorized. If a bidder would like to amend its bid, it must withdraw its bid and resubmit its bid prior to the receipt date and time for bids.

- c. *Withdrawal of Bid AFTER Bid Opening:* Bids may not be withdrawn if the mistakes are attributable to errors in judgment, nor may such mistakes be waived or corrected. If the mistake and the intended correct bid are clearly evident in the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident in the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors. A bidder may be permitted to withdraw a low bid if a mistake is clearly evident from the bid documents submitted by the bidder and/or a comparison with other bids, provided the notice is received in writing and within two (2) business days after the Bid Opening.
- d. *Withdrawal of Bid During Bid Evaluation:* If the lowest apparent responsive bid is 25% or more less than the next low bid, the Town may contact the bidder to confirm the bid price. If the bidder is able to verify, to the satisfaction of the Chief Procurement Officer, that it was a nonjudgmental mistake, the bid may be withdrawn.
- e. *Withdrawal of Bid After Award.* Bids containing mistakes shall not be corrected or withdrawn after award of a contract or issuance of a purchase order. No plea or claim of mistake in a bid or resulting contract shall be available as a defense in any legal proceeding brought upon a contract or purchase order awarded to a bidder as a result of the breach or nonperformance of such contract or purchase order.

7. Waiver of Informalities

An informality is a minor defect or variation of a bid from the exact requirements of the Invitation for Bid which does not affect the price, quality, quantity, or delivery schedule for the goods, services, or construction being procured. The Chief Procurement Officer may, in its sole discretion, waive such informalities or permit the bidder to correct them, whichever is in the best interest of the Town. Examples include, but are not limited to, failure of a bidder to:

- Return the number of signed bids required by the solicitation.
- Sign the face of the bid in the space provided, but only if the unsigned bid is accompanied by other signed documents indicating the bidder's intent to be bound.
- Acknowledge receipt of an addendum to the solicitation, but only if it is clear from the bid that the bidder received the addendum and intended to be bound by its terms, or the addendum involved had a negligible effect on price, quantity, quality, or delivery.

8. Bid Evaluation & Award

After the bid opening, each bid is evaluated to determine if it is responsive to the IFB. The responsive bids are then evaluated according to the criteria and/or evaluation procedure described in the IFB to determine which is the lowest bid. The contract is awarded to the lowest responsive and responsible bidder. For bids in response to construction services, the unit bid prices are evaluated with the Town's cost estimate. Items that have a significant deviation or variance from the cost estimate may be deemed unbalanced and require further evaluation.

9. Cancellation and Rejection of Bids

Pursuant to VPPA §2.2-4319, the Town may cancel an IFB or reject all bids at any time prior to making an award. The reasons for cancellation or rejection shall be made part of the contract file. The Town cannot cancel an Invitation for Bid solely to avoid awarding a contract to a particular bidder.

3.4 Construction Management and Design-Build Contracting

1. General Policy Guidelines

- a. The Town may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that the Town (i) complies with the requirements of Virginia Code § 2.2-4382 and (ii) has by ordinance or resolution implemented procedures as required by Section 3.4(1)(d), which procedures shall be incorporated into Appendix A of this Procurement Policies and Procedures Manual.
- b. Prior to making a determination as to the use of construction management or design-build for a specific construction project, the Town shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the Town regarding the use of construction management or design-build for that project and (ii) assist the Town with the preparation of the Request for Proposal and the evaluation of such proposals.
- c. A written determination shall be made in advance by the Town that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize construction management or design-build. The determination shall be included in the Request for Qualifications

and be maintained in the procurement file.

- d. Procedures adopted by the Town for construction management and design-build contracts shall include the requirements set forth in Virginia Code § 2.2-4382, as it may be amended from time to time, and shall be consistent with the procedures adopted by the State Secretary of Administration for utilizing construction management or design-build contracts, as they may be amended from time to time.

3.5 Job Order Contracting (JOC)

Job order contracting is a method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing. The contractor may be selected through either competitive sealed bidding or competitive negotiation depending on the needs of the Town. The contract term and the project amount shall not exceed the limitations specified in VPPA § 2.2-4303.2, and as provided below. The solicitation shall be posted on the Town of Leesburg’s Bid Board (<https://www.leesburgva.gov/bidboard>) and the Commonwealth of Virginia eProcurement website (<https://eva.virginia.gov/>).

1. Limitations

- a. A job order contract may be awarded by the Town for multiple jobs, provided (i) the jobs require similar experience and expertise, (ii) the nature of the jobs is clearly identified in the solicitation, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section, whichever occurs first. Contractors may be selected through either competitive sealed bidding or competitive negotiation.
- b. Such contracts may be renewable for two additional one-year terms at the option of the Town. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed the maximum threshold amount of \$6 Million. Subject to the maximum threshold amount, no individual job order shall exceed \$500,000.
- c. Any unused amounts from one contract term shall not be carried forward to any additional term.

- d. Order splitting with the intent of keeping the job order under the maximum dollar amounts is prohibited.
- e. The Town shall not issue or use a job order, under a job order contract, solely for the purpose of receiving professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in Virginia Code § 54.1-400. However, professional architectural or engineering services may be included on a job order where such professional services (i) are incidental and directly related to the job, (ii) do not exceed \$25,000 per job order, and (iii) do not exceed \$75,000 per contract term.
- f. Job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass. However, job order contracting may be used for safety improvements or traffic calming measures for individual job orders up to \$250,000, subject to the maximum annual threshold amount established in this section.

3.6 Request for Information (RFI)

A Request for Information (RFI) is an informal document issued when the Town is not aware of the products available in the market which may satisfy its requirements. The use of an RFI does not require a purchase requisition, however a RFI may result in the development of a requisition, or the issuance of an IFB or RFP after the Town determines the types of products that are available which will satisfy its requirements. An RFI cannot be made into an agreement.

3.7 Pre-Qualification for Construction

VPPA § 2.2-4317 allows public bodies to adopt procedures to solicit and prequalify potential contractors. In such cases, a list is maintained of those who have been evaluated and prequalified and determined to be acceptable in meeting minimum quality or performance standards pre-established by the Town. This qualification is performed in advance of the anticipated procurement or solicitation requiring competitive sealed bids, or as the first step in a two-step design-build solicitation process. By having a prequalification procedure, the time in the purchase cycle can be reduced, as solicitations are only sent to those contractors determined to be qualified. The qualification requirements must be established and potential contractors advised by letter and/or public posting sufficiently in advance of the anticipated procurement to allow for evaluation and qualification of potential contractors and/or products. The following guidelines shall apply to prequalification procedures:

1. General Policy Guidelines

- a. Prospective contractors may be prequalified for particular types of supplies, services, insurance or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedure shall be established by the Chief Procurement Officer in writing and sufficiently in advance of its implementation to allow potential contractors a fair opportunity to complete the process.

2. Prequalification for Construction

Any prequalification of prospective contractors for construction by the Town shall include:

- a. A written request for qualifications (RFQ) WILL BE ISSUED BY THE Town and shall include an application form that sets forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information subject to the provisions of subsection D of VPPA § 2.2-4342.
- b. In all instances in which the Town requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.
- c. At least 30 days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the Town shall advise in writing each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.
- d. A decision by the Town denying prequalification under the provisions of this subsection shall be final and conclusive unless the contractor appeals

the decision as provided in VPPA§ 2.2-4357.

3. Denial of Prequalification

The Town may deny prequalification to any contractor only if the Town finds one of the following:

- a. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the Town shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;
- b. The contractor does not have appropriate experience to perform the construction project in question;
- c. The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;
- d. The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the Town without good cause. If Town has not contracted with a contractor in any prior construction contracts, the Town may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The Town may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond;
- e. The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article 6 of the VPPA (Ethics in Public Contracting, § 2.2-4367 et seq.), (ii) the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.), (iii) Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1 (Conspiracy to

Rig Bids to Government), or (iv) any substantially similar law of the United States or another state;

- f. The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and
- g. The contractor failed to provide to the Town in a timely manner any information requested by the Town relevant to subdivisions (a) through (f) of this subsection.

The provisions of subsections 2 and 3 shall not apply to prequalification for contracts let under the Code of Virginia § 33.2-209, 33.2-214, or 33.2-221.

3.8 Request for Proposal (RFP)

A Request for Proposal (RFP), also referred to as competitive negotiation, is a formal solicitation that describes in general terms the requirements, the factors that will be used to evaluate the proposals received, the Town’s terms and conditions, any special conditions or qualifications that will be required, including those attached or incorporated by reference and addendum. In a competitive negotiation process, all proposal responses must be held unopened until the date and time specified in the solicitation. (*Reference: VPPA §2.2-4302.2*)

1. Comments Concerning Specifications

Pursuant to VPPA §2.2-4316, unless otherwise instructed in the solicitation, the Procurement Office is the sole point of contact for questions or comments concerning specifications or other provisions in RFP. Questions or comments concerning specifications must be made in writing and received by the Town by the question deadline specified in the RFP at least ten (10) calendar days prior to the proposal due date. Any interpretation deemed to be material in nature or that alters the needs of the goods or services being requested will be expressed in the form of a written addendum. Such addendum will be posted on the Town’s website and emailed to all properly registered offerors at least seven (7) calendar days prior to the proposal due date. Verbal communications will not be binding.

2. Pre-Proposal Conference

A pre-proposal conference is held when requested by the using department and/or as deemed appropriate by the Procurement Office. Generally, a pre-proposal conference

is conducted with offerors when the solicitation is complex, contains critical requirements, or requires a site visit. The purpose of the pre-proposal conference is to encourage competition through an increased understanding of the specifications and terms and conditions and provides an opportunity to clarify any requirements, eliminate potential ambiguities, and allows vendor input. Attendance at the pre-proposal conference by the vendors may be optional or mandatory as stated in the solicitation. When mandatory attendance is required, only proposals from those firms represented at the conference or site visit will be accepted. Any changes to the solicitation as a result of the pre-proposal conference will be in the form of a written addendum posted on the Town's website or other appropriate websites.

3. Proposal Receipt & Public Opening

It is the responsibility of the offeror to assure that its proposal is received by the Town prior to the date and time specified for the receipt of proposals. Proposals received after the time designed for receipt of proposal will not be considered. Public openings of proposals are not required. If a public opening is held, the names of the individuals, or the names of firms submitting proposals in a timely manner, is the only information read aloud and made available to the offerors and general public.

4. Proposal Evaluation, Negotiation, & Award for Goods and Non-Professional Services

For goods and non-professional services, proposals are evaluated by the Procurement Office and the evaluation committee, which is comprised of stakeholders within the Town. All RFP responses are to be evaluated. Proposals not meeting requirements should be scored lower. Only bids in response to an IFB may be determined to be nonresponsive. Proposals are evaluated on the basis of the criteria set forth in the RFP, using the scoring weights previously determined. The evaluation committee may request presentations or discussions with offerors, as necessary, to clarify material in the offerors proposals, to help determine those fully qualified and best suited. Offerors may be given an opportunity to correct a deficiency in their proposals, within an appropriate period of time, as determined by the Procurement Office. Offerors who fail to submit required documentation or meet mandatory requirements, in such time, for evaluation purposes may be eliminated from further consideration. Two or more offerors determined to be fully qualified and best suited are then selected for negotiation. Price is considered but need not be the sole determining factor.

During the evaluation phase it may be determined by the evaluation committee that only one offeror is fully qualified, or that one offeror is CLEARLY more highly qualified than the others under consideration. A written determination shall be prepared and retained in the contract file to document the meaningful and convincing facts supporting the decision for selecting only one offeror and negotiating with that offeror. The determination shall be signed by the agency head or designee.

Negotiations are conducted with each of the offerors so selected. Negotiation allows modification of proposals, including price. Offers and counter-offers may be made as many times with each offeror as is necessary to secure a reasonable contract. Unless there have been no changes in any of the items negotiated or only one proposal is under consideration, after negotiations have been conducted with each of the selected offerors, the evaluation committee may select the offeror through a consensus or proposals may be re-scored. The Town will select the offeror which, in its opinion, has made the best proposal. In all cases, written confirmation shall be obtained from the offeror on any modifications of the original proposal. Once a Notice of Intent to Award is posted, no further negotiation shall be conducted.

When a provision for receiving best and final offers (BAFO) is included in the RFP, after negotiations, offerors are given the opportunity to submit a best and final offer. After the offeror submits a BAFO, no further negotiation shall take place with that offeror. The offeror's proposal, if already received and scored, may be rescored to combine and include the information contained in the BAFO with the technical evaluation score previously assigned, and the award decision made. The contract file shall be documented to show the basis for the award and include the final rescoring of the proposals following negotiation and receipt of best and final offers.

For competitively negotiated procurements, once evaluation and negotiations have been completed with selected offeror(s), the Procurement Office must prepare a written narrative summarizing the rationale for the ratings that are developed for each proposal negotiated. The summary shall address the merits of the proposal relative to the evaluation ratings and shall not compare proposals to each other. Pursuant to VPPA §2.2-4359(D), the Town is not required to furnish a statement of the reason why a particular proposal was not deemed to be the most advantageous. Pursuant to VPPA §2.2-4342(D), offerors may inspect the proposal records after evaluation and negotiations are complete, but prior to award.

5. Proposal Evaluation, Negotiation, & Award for Professional Services

For professional services, the Town shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the Town in addition to the review of the professional competence of the offeror. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the Town may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. In accordance with VPPA § 2.2-4342,

proprietary information from competing offerors shall not be disclosed to the public or to competitors.

For architectural or engineering services, the Town shall not request or require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or standards developed pursuant to § 2.2-1132, until after the qualified offerors are ranked for negotiations.

At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the Town shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious.

Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the Town can be negotiated at a price considered fair and reasonable and pursuant to contractual terms and conditions acceptable to the Town, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, the Town may award contracts to more than one offeror.

Should the Town determine in writing and in its sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

Multiphase professional services contracts satisfactory and advantageous to the completion of large, phased, or long-term projects may be negotiated and awarded based on a fair and reasonable price for the first phase only, where the completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to entering into any such contract, the Town shall (i) state the anticipated intended total scope of the project and (ii) determine in writing that the nature of the work is such that the best interests of the Town.

6. Waiver of Informalities

An informality is a minor defect or variation of a proposal from the exact requirements of the Request for Proposal, which does not affect the price, quality, quantity, or delivery schedule for the goods, services, or construction being procured. The Chief Procurement Officer may, in its sole discretion, waive such informalities or permit the offeror to correct them, whichever is in the best interest of the Town. Examples include failure of an offeror to:

- Return the number of signed proposals required by the solicitation.
- Sign the face of the proposal in the space provided, but only if the unsigned proposal is accompanied by other signed documents indicating the offeror's intent to be bound.
- Acknowledge receipt of an addendum to the solicitation, but only if it is clear from the proposal that the offeror received the addendum and intended to be bound by its terms, or the addendum involved had a negligible effect on price, quantity, quality, or delivery.

7. Cancellation and Rejection of Proposals

Pursuant to VPPA §2.2-4319, the Town may cancel an RFP or reject all proposals at any time prior to making an award. The reasons for cancellation or rejection shall be made part of the contract file. The Town cannot cancel a Request for Proposal solely to avoid awarding a contract to a particular offeror.

SECTION 4 PURCHASE CARD POLICY

4.1 Purpose

It is the Town's policy to issue Purchase Cards (P-Cards) to Town employees in order to facilitate the purchase of certain goods and services. In order to safeguard against unauthorized purchases, these policies and procedures must be followed for the issuance of the P-cards, monitoring their activity, and use by selected Town employees.

These procedures are intended to ensure that use of the P-Card is in accordance with the Town's Procurement Policy and procedures; ensure that transactions are for authorized purposes through the establishment, and utilization of appropriate internal controls; ensure that the Town bears no legal liability from inappropriate use of P-Cards; and provide a convenient, cost-effective method for the purchase of goods and services.

4.2 Authority

Town Manager or designee(s) or **Department Director** or designee(s), also referred to as "Approving Official", is authorized and responsible for ensuring compliance with these policies and procedures; ensuring purchases are made within the guidelines of the Town's Procurement Policy; approving cardholder's monthly reconciliation submittals and certifying that the charges were necessary and for official Town business and are properly coded to the correct expense codes; initiating and administering appropriate discipline to employees who violate Town policies and procedures; and collecting cards from terminated employees and promptly returning them to the P-Card Administrator.

Director of Finance and Administrative Services or designee(s) is authorized and responsible for issuing the procedures that govern the use of P-Cards and overseeing the administration of the P-Card program.

Chief Procurement Officer or designee(s), also referred to as the "P-Card Administrator", is authorized and responsible for developing and maintaining the P-Card policy and procedures; administering the P-Card program; assisting in the resolution of any cardholder problems; monitoring P-Card activity to ensure departments and cardholders comply with the procedures; maintaining a liaison with the financial institution issuing the P-card; reviewing the monthly consolidated reports from the financial institution for unusual activity and compliance with procedures; and reporting problems and areas of noncompliance to the Director of Finance and Administrative Services and the approving official, or department director.

Town Employees or Cardholders are responsible for making purchases which are in compliance with these procedures and the Town's Procurement Policy and that all purchases are "For Official Use Only"; providing a complete audit trail of all P-card

transactions; resolving disputes or billing errors directly with merchants and notify the P-Card company and the Town's P-Card Administrator if the dispute is not resolved; assuring that sales tax is not charged on purchases, unless dictated by law; processing monthly P-Card records as set forth herein; and maintaining the security of the P-Card at all times.

4.3 Policy Guidelines

1. Issuance of P-Card

All P-Card applications must be authorized, completed, and signed by the applicable Department Director. Prior to releasing the P-Card to the cardholder, the Town employee is required to successfully complete p-card training that discusses the policies and procedures that govern the use of the Town's P-Card program. Upon receipt of the P-Card, the Town employee certifies in a Cardholder Agreement that they understand the policies and procedures that govern the use of the p-card. The P-Card is embossed with the cardholder's name and may only be used by that cardholder. Except for an authorized departmental card, the use of the P-Card is limited to **only** the person whose name appears on the face of the P-Card and no other person is authorized to use the card. Department Directors are not authorized to have a Town issued P-Card.

2. Approved Uses of P-Card

The P-Card shall be used for official Town of Leesburg business purposes only and shall be used in accordance with established procurement policies. P-Cards may be used for the acquisition of minor supplies or services within the single quote limit of the Small Purchase Policy or for reoccurring charges for goods or services provided that such purchases are under contract.

3. Limitations/Restrictions of P-Card

The P-Card shall be used for official Town of Leesburg business only and shall not be used for any non-business transactions. The following potential business transactions are restricted and prohibited: alcoholic beverages; cash advances; firearms; and gift cards. Due to the nature of operations for some departments, entertainment transactions may be authorized by the P-Card Administrator, with concurrence with the Department Director or designee(s), however they are generally restricted.

4. Documentation and Reconciliation

The reconciliation of P-Card transactions occurs monthly for cardholders. Documentation of each transaction shall be included with the P-Card cycle reconsolidation package. This documentation includes a charge slip, cash register tape, paid invoice receipt or a packing slip with pricing and, at a minimum, shall include a description of the item, quantity, unit cost, date of purchase, and vendor's name. Purchases for food, beverage, and/or travel shall follow the policy guidelines in the Town's Personnel Procedures Manual.

5. Card Security

P-Cards shall be kept in a secured location. The cardholder is responsible for all purchases made with a Town P-Card and under no circumstances should a p-card be loaned to another person. Cardholders shall immediately report lost or stolen P-Cards to the P-Card Administrator. The full P-Card account number is to be safeguarded to the fullest extent possible and shall **not** be posted or stored anywhere. In the event of fraudulent use of a P-Card, the cardholder must immediately contact the P-Card Administrator and/or the P-Card company and follow the instructions given. If the cardholder terminates employment with the Town of Leesburg, the P-Card must be turned in immediately to the Department Director, Human Resources, or to the Procurement Office.

6. Enforcement of Abuse and/or Other Violations

P-card abuses, as noted in this policy, shall follow the following escalation process:

- a. Any single fraudulent act committed by an employee will result in an immediate revocation of the individual's purchasing authority and reported to the employee's Department Director, the Director of Finance and Administrative Services, the Director of Human Resources, the Town Manager, and the Leesburg Police Department as it is appropriate. Fraudulent acts or purchases of personal items on a Town-issued P-Card may result in disciplinary action up to and including employee termination on the first offense as the Town has a zero tolerance for fraud.
- b. Abuse includes accidental or careless or inadvertent personal use promptly remedied, purchase of unnecessary or overpriced items, repeated intentional failure to submit proper accounting codes, failure to get price quotes, and failure to provide reconciliation reports on-time.

- c. Upon the first infraction or instance of abuse, the immediate supervisor and Department Director will be notified of the failure to comply, and the Cardholder will be immediately counseled as to deviations from the policy by Chief Procurement Officer or designee(s) and user training shall be conducted.

- d. Upon three (3) known offenses of abuse within a 12 consecutive month period, the immediate supervisor, Department Director and Director of Human Resources will be notified of the failure to comply and shall be given a written summary of abuses. An automatic reduction on performance evaluation category for job knowledge, quality of work, and achievement evaluation period goals, making a superior rating unavailable and may result in the cardholder being placed on a performance improvement plan. Possible removal of P-Card use privilege, as well as possible administrative leave depending upon the specifics and severity related to the abuse may be conducted.

- e. Reinstatement of the P-Card use privilege may be requested by the Department Director or designee(s) thirty (30) days after receipt of removal notice provided training is completed.

SECTION 5 BID PROTESTS, DEBARMENT, AND OTHER APPEALS

5.1 Bid Protests

Chief Procurement Officer or designee(s) serves as the designated official for all bid protest activities under VPPA § 2.2-4360.

5.2 Debarment

It is the policy of the Town of Leesburg to, after reasonable notice to the person involved and reasonable opportunity for that person to be heard, debar a person or contractor for cause. During the period of debarment, a supplier will not be eligible to receive solicitations or contract awards, or to have contracts renewed or extended. The debarment shall not be for a period of more than three (3) years.

The causes for debarment include but are not limited to:

1. Conviction for a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
2. Conviction under state or federal anti-trust statutes arising out of the submission of bids or proposals.
3. Unsatisfactory performance on a contract with the Town, including but not limited to, failure to comply with contract terms and conditions or to meet specification/scope of service requirements.
4. Offering any gift, gratuity, favor, or advantage to any Town employee who exercises official responsibility for procurement transactions.
5. Failing to disclose a condition constituting a conflict of interest by any officer, director, owner, partner, or agent of the supplier in a contract or purchase order awarded by the Town.
6. Conviction of any criminal offense, or a judgment in civil litigation, which indicates a lack of moral or business integrity.

It is the supplier's responsibility to request reinstatement at the end of the debarment period.

5.3 Petition for Recycled Goods and Products

Pursuant to VPPA §2.2 – 4313, any person who believes that particular goods or products with recycled content are functionally equivalent to the same goods or products produced from virgin materials may petition the Chief Procurement Officer to include the recycled goods or products in its procurement process. The petitioner shall submit documentation which establishes that the goods or products (i) contain recycled content and (ii) can meet the performance standards set forth in the applicable specifications prior to bid/proposal due date. If the Chief Procurement Officer determines that the documentation demonstrates that the goods or products with recycled content will meet the performance standards set forth in the applicable specifications, it shall incorporate such goods or products into its procurement process.

5.4 Petition for Less Toxic Goods and Products

Pursuant to VPPA §2.2-4314, any supplier, who manufactures, sells or supplies goods or products may petition the Chief Procurement Officer to include requirements for less toxic goods and products into its procurement process. The supplier shall submit, prior to or during the procurement process, documentation which establishes that the goods or products meet the applicable performance standards. If the Chief Procurement Officer determines that the documentation establishes that the less toxic goods or products meet the performance standards set forth in the applicable specifications, they shall incorporate the specifications for the less toxic goods and products into their procurement process. The Town will revise procedures and specifications on a continuing basis to encourage the use of less toxic goods and products; however, the Town is not required to purchase, test or evaluate any particular good or product other than those that would be purchased under regular procurement procedures.

SECTION 6 CONTRACT ADMINISTRATION

Contract administration relies heavily on contract development. After the contract is awarded, the contract must be administered to ensure that the contractor complies with their obligations and requirements under the contract. Contract administration includes attending post award and progress meetings, payment of invoices, review of contractor disputes and claims, change orders, contract modifications, and other transactions in administering the contract.

6.1 Authority

Town Council is the governing body of the Town of Leesburg, Virginia. During the performance of a contract, advanced written approval is required by Town Council to increase a fixed-price contract by more than twenty-five percent (25%) of the amount of the contract or \$50,000, whichever is greater.

Town Manager or designee(s) is authorized to execute change orders and contract modifications above the 25% threshold after Town Council award approval is obtained via resolution. The Town Manager or designee(s) shall have the authority to modify a contract after advisement from the Town Attorney for any contracts within its authority to execute.

Chief Procurement Officer or designee(s) is authorized to process purchase order change orders and execute change orders and contract modifications up to the 25% threshold. The Chief Procurement Officer or designee(s) shall have the authority to modify a contract after advisement from the Town Attorney for any contracts within its authority to execute.

Department Director or designee(s) is authorized to execute change orders up to the 25% threshold for changes in the work, the cost impact on the contract, and the extent of the adjustment in the contract time, if any. The Department Director or designee(s) is **not** authorized to execute contract modifications which bind the Town.

6.2 Change Orders and Contract Modifications

“Change Order” means a written authorization or order to a contract or purchase order, signed by the Town Manager or Contract Administrator or designee(s), which normally establishes a change in the work, the cost impact on the contract, and the extent of the adjustment in the contract time, if any.

A “Contract Amendment, Contract Modification” means a written alteration or modification in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

Any request for change affecting price, quality, quantity, delivery or cancellation requires a thorough written explanation by the Town prior to approval. A contractor shall not be notified that a change has been approved until that change has been authorized by the Department Director, Procurement Office, or designee(s). All change requests should be evaluated for contract validity and a price reasonableness determination of the change shall be made in writing.

6.3 Contract Renewals and Extensions

A term contract may contain a renewal clause describing the conditions under which it may be renewed for a stipulated period of time. However, no contract may be renewed and no additional consideration may be paid unless specifically provided for in the original contract. Often indices such as the Consumer Price Index (CPI) or Producer Price Index (PPI) are used as a benchmark in pricing renewal options and assist in determining price reasonableness. Price increases should not be given automatically at renewal. It is the responsibility of the contractor to request a price increase, if desired, up to the amount authorized by the index referenced in the contract. The Town may then negotiate the amount of the increase up to the indexed amount.

The Town may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract. In unforeseen or extenuating circumstances, a contract may be extended by mutual consent for no more twelve (12) months.

6.4 Distributing Projects for Multiple Award Architectural or Engineering Contracts

The contract term and the project amount shall not exceed the limitations specified in VPPA § 2.2-4303.1, as provided below.

1. Contracting Limitations

- a. A contract for architectural or professional engineering services may be awarded by the Town for construction projects, provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the solicitation, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section, whichever occurs first. Such contracts may be renewable for four additional one-year terms at the option of the Town. The fair and reasonable prices as negotiated shall be used in determining the cost of each project performed.
- b. The sum of all projects performed in a one-year contract term shall not exceed \$8 Million and those awarded for any airport as defined in the Code of Virginia §

5.1-1 and aviation transportation projects, the sum of all such projects shall not exceed \$1.5 million.

- c. The fee for any single project shall not exceed \$2.5 Million; however, for architectural or engineering services for airports as defined in the Code of Virginia §5.1-1 and aviation transportation projects, the project fee of any single project shall not exceed \$500,000.

2. Task Orders to Contractors

The Task Order will be offered to one or more of the Architectural or Engineering (A/E) Contractors at the Town's discretion. The Task Order must include a scope of work, a definition of the product required, a request for a project schedule and a request for a fee proposal. Upon receipt of the Contractor's proposal, the Town may award the Task Order deemed to be the best suited for the project.

The fee for the services on each Task Order shall be negotiated individually on a lump sum basis considering the Scope of Services required, the estimated man-hours required for each skill level/discipline and the labor rates agreed upon and listed in the Contract. If an estimate of the time required to perform the Work cannot be reasonably estimated, the A/E may be directed to proceed with work on an hourly basis with a maximum or not-to exceed amount. The compensation / fee shall be determined by the A/E's certified record of man-hours expended by classification / skill level / discipline and the hourly rates for each as listed in the contract.

6.5 **Contract Task Orders**

Department Director or designee(s) is **not** authorized to execute task orders that bind the Town for the purchase of goods, services, insurance or construction and authorize a contractor to proceed with an order unless a written exception and delegation is given by the Town Manager during an official declared emergency.

6.6 **Prompt Pay Act for Localities**

Unless agreed to otherwise in writing, the Town will pay invoices in accordance with the Prompt Pay Act for localities or within forty-five (45) days after goods or services are received or the invoice is rendered, whichever is later.

SECTION 7 SMALL, WOMAN, AND MINORITY OWNED BUSINESS PROGRAM

The Town will undertake every reasonable effort to increase the opportunity for participation in the procurement process by small, minority, women, and service--disabled veteran-owned firms. Town employees with purchasing responsibility are expected to notify and give every reasonable consideration to using qualified small business suppliers for their procurement needs. Whenever the Town engages in a solicitation or request for quotes that exceed \$50,000, it will post the notice on either the Town of Leesburg's Bid Board (<https://www.leesburgva.gov/bidboard>) and/or the Commonwealth of Virginia eProcurement website (<https://eva.virginia.gov/>).

Additionally, the Procurement Office will participate in training seminars for the purpose of informing small, minority, women, and service-disabled veteran-owned bidders of the procurement opportunities and procedures; participate to the maximum extent possible in all local and regional vendor or procurement fairs for small, minority, women, and service-disabled veteran-owned businesses; and cooperate with the Department of Minority Business Enterprise, the United States Small Business Administration, and other public or private agencies.

While the Town encourages participation in the procurement process to small, minority, women, and service-disabled veteran-owned businesses, it does not give preference to categories of businesses and has not adopted set-aside contracting and will not set-aside portions of the award of the contract. (See Virginia Code § 15.2-965.1 which allows but does not require localities to adopt such measures.)

SECTION 8 SURPLUS PROPERTY POLICY

It is the policy of the Town of Leesburg that surplus property or supplies no longer having monetary value and usefulness to the Town shall be disposed of in accordance with the Surplus Property Policy and Procedures.

Department Directors or designee(s) are responsible for the disposition of Town assets. Town employees and their immediate families are not authorized to participate in surplus auctions per the Town Surplus Auction Terms and Conditions.

Notice of the disposal is posted on the Public Surplus website (<https://www.publicsurplus.com>) or other appropriate websites. The Town's Surplus Auctions Terms and Conditions, included as Appendix C to this Policy, shall be used for all surplus auctions by all Town employees who have the responsibility for a procurement transaction. Unless agreed to otherwise in writing, all vendors who wish to do business with the Town must adhere to the Surplus Auctions Terms and Conditions.

Disposal of any asset acquired with state or federal grant funding or tax-exempt General Obligation bonds must be done in compliance with the original grant agreement and applicable state or federal grant regulations related to asset disposals. If in doubt about the applicability of such restrictions the person seeking to dispose of any such asset must contact the Director of Finance and Administrative Services, Controller or Accounting Manager for assistance before disposing of the asset. Failure to do so may result in the Town having to make restitution or pay penalties to the grantor agency or to the Internal Revenue Service.

NOTE: Town of Leesburg employees can access the procurement charts, checklists, and forms that were referenced throughout this Policies and Procedures Manual on the Town's Employee Portal: <https://employee.leesburgva.gov/DEPARTMENTS/Finance/Procurement>.

SECTION 9 VENDOR MANUAL AND DOING BUSINESS WITH THE TOWN

It is the policy of the Town of Leesburg that qualified vendors have access to public business and that no offeror be arbitrarily or capriciously excluded, that competition be sought to the maximum feasible degree, that procurement procedures involve openness and administrative efficiency, that individual public bodies enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the Town rather than being drawn to favor a particular vendor, and that the Town and vendor freely exchange information concerning what is sought to be procured and what is offered. A copy of the vendor's guide on how to do business with the Town can be found on the Town's Procurement Website: <https://www.leesburgva.gov/departments/finance/procurement>.

SECTION 10 PROCUREMENT VIOLATION POLICY

10.1 Definitions

For purposes of this policy, the terms defined in this section have the meanings ascribed to them in this section unless the context clearly indicates that another meaning is intended.

1. *“Procurement Violation”* is a general term used to describe a purchase made by a Town official or employee that does not comply with established procurement policy. A *“Procurement Violation”* is either categorized as an *“Improper Procurement”* or an *“Unauthorized Purchase”*.
2. *“Improper Procurement”* refers to a purchase made by a Town official or employee which does not comply with established procurement policy and (i) is not over the Small Purchase threshold and (ii) the department has available funds. An *“Improper Procurement”* may be ratified in accordance with the requirements of this policy.
3. *“Unauthorized Purchase”* means a purchase made (i) over the Small Purchase threshold and not in compliance with procurement laws or (ii) without available funds. An *“Unauthorized Purchase”* cannot typically be cured by ratification.
4. *“Ratification”* or *“Ratify”* refers to the process for legitimizing (i.e., approving) a purchase made by a Town official or employee which does not comply with established procurement policy.

10.2 Policy

All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding or competitive negotiation pursuant to the Virginia Public Procurement Act (VPPA) and Town Policies, unless otherwise or exempted by law, statute, or regulation. These policies apply whether the consideration is monetary or nonmonetary and regardless of whether the Town, the contractor, or a third party is providing the consideration. The Town prohibits officials and employees from procuring or contracting for any goods, services, insurance, or construction in a manner in which is not in compliance with procurement policies contained herein.

The Town shall not be bound by any purchase order or contract made (i) contrary to the procurement laws or (ii) when sufficient funds are not available. In addition, Town Code Sec 2-158(b), prohibits the expenditure of funds or the incurrence of obligations in the absence of a valid appropriation as certified by the Director of Finance and Administrative Services or his or her designee thereof.

Any official or employee who knowingly authorizes or makes payment without appropriated funds available or knowingly takes part therein shall be personally responsible for the full amount so paid or received. Additionally, contractors and every person who shall knowingly receive such payment or any part thereof shall be jointly and severally liable to the Town for the full amount so paid or received.

10.3 Violation Examples

1. Examples of an Improper Procurement (less than \$200,000)
 - a. Using department makes a non-contract purchase over the single quote threshold without following proper procurement procedures (e.g. not obtaining the required competition stated in the Town of Leesburg Procurement Policy)
 - b. Using department authorizes additional goods or services which are different in scope and quantity in comparison to a previously approved contract.
 - c. Modifying a contract over the single quote threshold in any manner.
 - d. In general, creating the purchase order after the goods or services have been delivered.
 - e. Unauthorized signing of any type of vendor contract containing contractual terms and conditions.

2. Examples of an Unauthorized Procurement (more than \$200,000)
 - a. Using department makes a non-contract purchase over the formal bid limit without submitting their request through Procurement to complete competitive procurement requirements.
 - b. Using department authorizes additional goods or services which are different in scope and quantity in comparison to a previously approved contract.
 - c. Modifying a contract in any manner.
 - d. Unauthorized signing of any type of vendor contract containing contractual terms and conditions.

10.4 Ratification of Violations

Ratifying officials may approve a purchase made in violation of procurement policy upon receipt of a written corrective action plan signed and approved by the using Department Director.

1. The written corrective action plan should include the following:
 - a. A description of what occurred and what steps have (or will) been taken to preclude future occurrences.
 - b. The name of the official or employee who made the unauthorized commitment, to include a statement that the official or employee understands what error was made and how to properly procure in the future.
 - c. A statement indicating funds are available for the purchase (which may be satisfied through department approval of a requisition for the full dollar amount).
 - d. A determination that the price of the goods, services, insurance, or construction is fair and reasonable based upon appropriate market analysis.
 - e. Confirmation that the goods, services, insurance or construction have been provided and accepted (or cannot be reasonably returned) by the Town.
 - f. A statement indicating the contractor providing the good or services acted in good faith and that there was no collusion to circumvent proper procurement procedures.
2. For procurement violations with a value up to and including \$30,000, the Chief Procurement Officer is the ratifying official.
3. For procurement violations with a value greater than \$30,000 and up to \$50,000, the Chief Procurement Officer and the Director of Finance and Administrative Services must approve the ratification.
4. For procurement violations with a value greater than \$50,000, the Chief Procurement Officer, the Director of Finance and Administrative Services, and the Town Manager must approve the ratification.

10.5 Escalation for Violations

The following escalation procedures for repeated procurement violations is as follows:

1. First Infraction: Letter to individual user requesting justification as to why policy was not followed and acknowledgment of the procedural mistake. A copy of the letter is sent to the immediate supervisor and the Department Director. Payment will not be processed until documentation is received.
2. Second Infraction: Letter to individual user requiring attendance at a one-on-one Procurement User Training with a copy of letter going to immediate supervisor and Department Director. If individual refuses to attend user training, suspend purchasing authority and notify immediate supervisor and Department Director.
3. Third Infraction: Revoke procurement authority of individual. Notify immediate supervisor, Department Director, and Director of Human Resources of continuous failure to comply and request that duty be reassigned. A third infraction within a 12 consecutive month period must be included and considered when an employee's performance evaluation is prepared and may result in the employee being placed on performance improvement plan or disciplinary action up to and including termination depending upon the amount and severity of the infraction at the discretion of the Town Manager.
5. Reinstatement: Reinstatement of procurement authority may be requested by the Department Director thirty (30) days after receipt of the revocation notice provided training is completed.

10.6 Fraud and Severe Violations

1. Any single fraudulent act committed by an employee will result in an immediate revocation of the individual's purchasing authority and reported to the employee's Department Director, the Director of Finance and Administrative Services, the Director of Human Resources, the Town Manager, and the Leesburg Police Department as it is appropriate. Fraudulent acts may result in disciplinary action up to and including termination.
2. Given the severity of the procurement violation, any officer or employee who makes an improper procurement or unauthorized purchase may have their access to the Town's electronic procurement system suspended or revoked for a single incident.

SECTION 11 DEFINITIONS

The words defined in this section shall have the meanings set forth herein wherever they appear in this policies and procedures manual, unless the context in which they are used clearly requires a different meaning, or a different definition is prescribed for a particular section or provision.

1. Best and Final Offer (BAFO) means the last offer provided by an offeror in response to a Request for Proposal.
2. “Best value,” as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to Town’s needs.
3. “Bid” means a competitively priced bid to the Town in response to an Invitation for Bid (IFB). This may also mean a submitting price on a public surplus auction solicited by the Town.
4. “Bidder” means an individual or business who submits a competitively priced bid in response to an Invitation for Bid (IFB), who submitted a quote on an unsealed solicitation, or who submits a bid on a public surplus auction.
5. “Bid Bond” means an indemnity agreement in which a third party agrees to be financially liable to pay a certain amount of money in the event a selected bidder fails to accept the contract as bid.
6. “Bid Deposit” means a certified check or cash escrow deposited by a bidder as an agreement in which the bidder agrees to be financially liable to pay a certain amount of money in the event the bidder fails to accept a contract as bid.
7. “Bid Opening” means the process of publicly opening and reading bids at the time and place specified in the Invitation for Bid.
8. “Blanket Purchase Agreement” is a procurement instrument under which the Town contracts with a vendor to provide goods or services for low or erratic volumes under the single quote limit on an as required and over-the counter basis for a 12-month period.
9. “Change Order” means a written authorization change a contract or purchase order, signed by the Town Manager or designee or Contract Administrator, which establishes a change in scope, the cost, and the extent of any adjustment in delivery times.
10. “Competitive Sealed Bidding” means a formal method of selecting the lowest responsive

and responsible bidder. It includes the issuance of a written Invitation for Bid (“IFB”), public notice, a public bid opening, and evaluation based on the requirements set forth in the IFB. The Procurement Office may establish methods for conducting transactions electronically, an IFB may be issued directly to vendors electronically, or bids in response thereto may be submitted electronically if specifically authorized in the IFB.

11. “Competitive negotiation” means a formal method of selecting the offeror (or offerors, in the case of multi-award contracts), which in the opinion of the Town has made the best proposal and provides the best value or whose professional qualifications and proposed services are deemed most meritorious. It includes the issuance of a written Request for Proposal (“RFP”), public notice, evaluation based on the criteria set forth in the Request for Proposal and allows negotiation with the top-rated offeror or offerors. Upon implementation of methods prescribed by the Procurement Office for conducting transactions electronically, an RFP may be issued directly to vendors electronically, or proposals received in response may be submitted electronically if specifically authorized in the RFP.
12. “Construction” means building, altering, repairing, improving, or demolishing any structure, building, road, drainage, or sanitary facility, and any draining, dredging, excavation, grading, or similar work upon real property.
13. “Construction management contract” means a contract in which a party is retained by the Town to coordinate and administer contracts for construction services for the benefit of the Town and may also include, if provided in the contract, the furnishing of construction services to the Town.
14. “Consultant services” means any type of services required by the Town, but not completed by Town employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of service required and at fair and reasonable compensation, rather than by competitive sealed bidding.
15. “Contract” means any type of agreement for the purchase or disposal of goods, supplies, services, or construction. It includes contracts of a fixed price, cost, leases, and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.
16. “Contract Administration” means the management of all facts of a contract to assure the Contractor’s total performance is in accordance with the contractual commitments and that the obligations of the Contractor under the terms and conditions of the contract are fulfilled.
17. “Contract Amendment, Contract Modification” means a written alteration or modification in specifications, delivery point, rate of delivery, period of performance,

price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

18. “Contract, Cost-Plus-A-Percentage of Cost” means a form of contracts which provides for an agreed to fee or profit at a specified percentage of the contractor’s actual cost of accomplishing the work.
19. “Contract, Design-Build” means a contract the Town and another party in which the party contracting with the Town agrees to both design and build the structure, roadway or other item specified in the contract.
20. “Contract, Fixed Price” means a contract that provides a firm unit price or lump sum price to be established at the time of order placement or contract award.
21. “Contract, Fixed Price with Incentive” means a fixed price with an agreed upon target cost and/or profit, a ceiling price, and a profit formula. Below target, the Contractor and the Town share savings. Above ceiling, the Contractor must assume all costs.
22. “Contract, Fixed-Price with Escalation/De-Escalation” means a fixed price type of contract that provides for the upward and downward revision of the stated contract price upon the occurrence of certain contingencies (such as fluctuations in material costs and labor rates) specifically defined in the contract.
23. “Contract Management” means the management of the Town’s contracts and contract-related activity which may include accounting, administration, auditing, grants management, law, negotiation, logistics, price-structure compensation, delegation of purchasing authority, program management, termination and other business-related activities.
24. “Contract, Requirements Type” means a form of contact covering long-term requirements used when the total quantity required cannot be definitively fixed but can be stated as an estimate or within maximum and minimum limits, with deliveries on demand. Such contracts are usually for one year or more in duration. Such contracts may also be referred to as “on-call”, “annual”, or “indefinite delivery/indefinite quantity” (ID/IQ).
25. “Contract, Time and Materials” means a contract providing for the procurement of supplies or services on the basis of direct labor hours at specified fixed hourly rates (which include direct and indirect labor, overhead, and profit) and material at cost, or at some bid percentage discount from a manufacturer’s catalog or list prices.
26. “Contractor” means any person or business having a contract with the Town.

27. “Debarment” means an action taken to deny prequalification, disqualify, or debar an individual or firm from consideration for award of contracts by the Town. A debarment shall not be for a period exceeding three (3) years and during that time, the debarred entity or individual shall be ineligible to bid or propose on Town solicitations.
28. “Department” means a division that is operating under the Town government organizational structure and has the same meaning as agency or office.
29. “Designee” means a duly authorized representative selected to carry out a duty or role, and act within the limits of the delegator’s authority.
30. “Design-build contract” means a contract between the Town and another party in which the party contracting with the Town agrees to both design and build the structure, roadway, or other item specified in the contract.
31. “Emergency” means a threat to life or property or an unforeseen situation, which curtails or greatly diminishes an essential service, as determined by the Town Manager or Chief Procurement or designee(s).
32. “Employee” or “Town employee” means a person employed by and drawing a salary from the Town, including elected officials or appointed members of governing boards and commissions.
33. “Excess Property” means property which exceeds the requirement of the department or agency to which the property is assigned.
34. “Faith-Based Organization” means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P. L. 104- 193.
35. “Firm” means any individual, partnership, corporation, association, or other legal entity permitted by law to conduct business in the Commonwealth of Virginia; or any other individual, firm, partnership, corporation, association or other legal entity qualified to perform professional, non-professional, or consultant services.
36. “Fiscal year” means the 12-month period used for accounting purposes. The Town’s fiscal year is from July 1 through June 30.
37. “Fixed Asset” means a tangible object (not a component) which has an expected useful life of at least one year and a dollar value in excess of \$5,000.
38. “Formal solicitation” means a sealed invitation to bid or sealed request for proposal

issued where the estimated cost greater than or equal to the VPPA formal solicitation limit (or \$200,000).

39. “Gift” means any present or promised payment, loan, subscription, advance, deposit of money or service given, unless consideration of substantially equal or greater value is exchanged.
40. “Goods” means all material, equipment, supplies, printing, including and information technology hardware and software and intellectual property.
41. “Information Technology” means any goods or services including telecommunications, automated data processing, databases, the internet, management information systems, software systems, intellectual property, and any related equipment, management and records.
42. “Immediate family” means a spouse, child, parent, brother, sister, and any other person living in the same household as the employee.
43. “Independent contractor” means a worker over whom the employer has the right to control or direct the result of the work done, but not the means and methods of the work.
44. “Ineligibility” means an action taken by the Town to refuse permission to participate, or disqualify from participation, an offeror, bidder, or contractor, in public contracts.
45. “Informality” means a minor defect or variation of a bid or proposal from the exact requirements of the IFB or the RFP which does not affect the price, quality, quantity, or delivery schedule for the goods, services, or construction being procured.
46. “Informal solicitation” means an unsealed invitation to bid or unsealed request for proposal issued under the Town’s Small Purchase Policy where the estimated cost is less than the VPPA formal solicitation limit (or \$200,000).
47. “Invitation for Bid” means a document containing or incorporating the scope of work and all contractual terms and conditions, which is used to solicit written bids for a specific requirement for goods, nonprofessional services, or construction. This type of solicitation is referred to herein as Invitation for Bid (IFB) or competitive sealed bidding.
48. “Job order contracting” means a method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing. The contractor may be selected through either competitive sealed bidding or competitive negotiation depending on the needs of the Town. A minimum amount of work may be specified in the contract.

49. “Joint Procurement” means a procurement by a public body with one or more other public bodies, for the purpose of combining requirements for the purchase of like goods and/or services in order to increase efficiency and/or reduce administrative expenses. All authorized parties are involved in the procurement process and only those parties can participate in jointly purchasing from the contract. No other public bodies can purchase from the contracts as joint purchasers.
50. “Nonprofessional services” means any service not specifically identified as a professional service.
51. “Notice of Award” means public written notification, including electronic notice, that a vendor has received an award by the Town.
52. “Notice of Intent to Award” means public written notice, including electronic notice, prior to award that shows the selection of a vendor for the award of a specific contract or purchase order.
53. “Offeror” means a person or business who makes an offer in response to a Request for Proposal (RFP).
54. “Payment bond” means a bond required of a contractor in which a surety guarantees to the Town of the contractor’s obligation to pay all persons supplying labor or materials in the performance of the work provided for in the contract.
55. “Performance bond” means a bond required of a contractor in which a surety guarantees to the Town that the work/services will be performed in accordance with the contract documents.
56. “Purchase Order” means a legal, binding document used by the Town to execute a purchase transaction with a contractor or vendor. When issued to the vendor, it serves as notice to a vendor that an award has been made and that performance can be initiated under the terms of the contract.
57. “Official responsibility” means administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove, or otherwise affect a procurement transaction or any resulting claim.
58. “Potential bidder, contractor, or offeror” means a person who, at the time the Town negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance, or construction, of the type to be procured under such contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid

or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

59. “Pre-bid or Pre-Proposal Conference” means a meeting open to all with interested bidders or offerors prior to submission of bids or proposals to review, discuss and clarify technical considerations, specifications, or standards relative to the proposed procurement.
60. “Prequalification” means a procedure to prequalify products or vendors and limit the consideration of bids or proposals to only those products or vendors which have been prequalified.
61. “Procurement” means the process for obtaining goods or services, including activities from the planning steps and preparation of the processing a purchase requisitions, through receipt and acceptance of delivery and processing a final invoice for payment.
62. “Procurement official” means a person who is assigned to the Department of Finance and Administrative Services as the procurement official who shall have the general administrative and supervisory authority for the Town’s procurement process. The Chief Procurement Officer may appointment one or more procurement officials to assist in carrying out the procurement functions of the Town, subject to the supervision and contract of the Chief Procurement Officer, and/or Finance Director or designee(s).
63. “Procurement transaction” means all functions that pertain to the Town’s procurement from nongovernmental sources, including the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. A Procurement transaction may or may not result in monetary consideration for either party and applies whether the consideration is monetary or nonmonetary and regardless of whether the Town, the contractor, or a third party is providing the consideration.
64. “Professional services” means work performed by an independent contractor within the scope of practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering.
65. “Proposal” means an offer made from one party to the Town in response to a Request for Proposal (RFP) and is the basis for negotiations prior to the creation of a contract.
66. “Public body” means any legislative, executive, or judicial body, including the Town of Leesburg, agency, office, department, authority, post, commission, committee, institution, board, or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the

activities described in this policies and procedures manual. Public body shall include any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia.

67. “Public contract” or “contract” means an agreement between the Town and a nongovernmental source that is enforceable in a court of law.
68. “Request for Information” means to request for information on goods or services available in the market which may satisfy the Town’s requirements.
69. “Request for Quotation” means a request for a quote from one or more vendors under and open market procurement where the estimated cost is less than the VPPA formal solicitation limit (or \$200,000).
70. “Request for Proposal” means a document, including those attached or incorporated by reference and addendum, containing or incorporating the Town’s needs and is utilized for soliciting proposals. This type of solicitation is referred to herein as Request for Proposal (RFP) or competitive negotiation.
71. “Responsible bidder” or “offeror” means an individual, company, firm, corporation, partnership, or other organization who has the capability in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required.
72. “Responsive bidder” or “offeror” means an individual, company, firm, corporation, partnership or other organization who has submitted a bid which conforms in all material respects to the Invitation to Bid or Request for Proposal.
73. “Reverse auctioning” means a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services, excluding construction or professional services, through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidder’s prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.
74. “Scope of work” means the requirements describing the contractor’s responsibility for providing the specified goods and services.
75. “Single purchase” or “Spot purchase” means a one-time purchase made in an open market. If it is under the small purchase threshold, it will be made in accordance with the Small Purchase Policy. If over the small purchase threshold, it will be made by competitive sealed bidding or competitive negotiation or by an exception authorized by law.

76. “Services” means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials, and supplies.
77. “Sole Source” means a proprietary purchase method where the good or service required is restricted to the manufacturer(s) stipulated or which is only practicably available from one source. Competition should be used if the proprietary goods or services are not sold exclusively by the manufacturer and are available from multiple suppliers, vendors or distributors.
78. “Specification” means the description of the physical or functional characteristics, or of the nature of good service or construction item. It may include a description of any requirement for inspecting, testing or preparing a good, service or construction item for delivery.
79. “Statement of Needs” means the general description of the services to be performed or the goods to be purchased, including quantity, specific tasks, parameters, etc. and is generally used in a Request for Proposal.
80. “Surplus property” shall mean property or supplies no longer having monetary value and usefulness to the Town. This includes obsolete supplies, scrap materials, nonexpendable supplies and equipment, and equipment that have completed their usual useful life.
81. “Term contract” means a type of contract in which a source of supply is established for a specified period of time for specified services or supplies; usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit or lump sum price.
82. “Total value” means the total of all considerations (monetary and nonmonetary) from all parties (Town, contractors and any third parties) for the initial period of the contract plus any possible renewal periods. If the total value is up to and including \$200,000, the Town’s Small Purchase Policy may apply. If the total value is over \$200,000, a decision must be made to use competitive sealed bidding (IFB) or competitive negotiations (RFP), as deemed appropriate.
83. “Town” means the Town of Leesburg, Virginia a council-manager form of government empowered by the Town Charter to carry out the policies and programs.
84. “Virginia Public Procurement Act” or “VPPA” refer to Chapter 43 of Title 2.2, Code of Virginia, which enunciates the public policies and state law pertaining to governmental procurement from nongovernmental sources.

APPENDIX A PROCUREMENT PROCEDURES MANUAL

NOTE: Town of Leesburg employees can access the standard operating procedures that were referenced throughout this Policies and Procedures Manual on the Town’s Employee Portal: <https://employee.leesburgva.gov/DEPARTMENTS/Finance/Procurement>.

APPENDIX B SOLICITATION TEMPLATES

NOTE: Town of Leesburg employees can access the solicitation templates that were referenced throughout this Policies and Procedures Manual on the Town's Employee Portal:

<https://employee.leesburgva.gov/DEPARTMENTS/Finance/Procurement>.

APPENDIX C PROCUREMENT CHARTS, CHECKLISTS, AND FORMS

NOTE: Town of Leesburg employees can access the procurement charts, checklists, and forms that were referenced throughout this Policies and Procedures Manual on the Town’s Employee Portal: <https://employee.leesburgva.gov/DEPARTMENTS/Finance/Procurement>.