



TOWN OF WATERBORO

MUNICIPAL PURCHASING POLICY

**Adopted 11/18/08 by the Board of Selectmen
Amended 12/2/08 by the Board of Selectmen**

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TOWN OF WATERBORO

MUNICIPAL PURCHASING POLICY

Section 1. Purpose

The purpose of this regulation is to standardize the purchasing procedure of the Town of Waterboro, thereby securing for the Town the advantages of a centralized and uniform purchasing policy saving the taxpayers' money and increasing public confidence in the procedures for municipal purchasing; to promote the fair and equitable treatment of all suppliers of goods and services; and to set forth the duties and responsibilities of the department heads and the Purchasing Agent, thereby fostering interdepartmental cooperation and trust in the purchasing system.

Section 2. Definitions

1. Approved vendors.

"Approved vendors" means those vendors identified by each department head to the Purchasing Agent, who shall maintain a list of approved vendors for bidding purposes. The Purchasing Agent shall keep detailed lists for each department on file at all times.

2. Bid most advantageous to the Town.

"Bid most advantageous to the Town" means a bid chosen on the basis of price, quality of merchandise, suitability of merchandise, and service reputation of the vendor, which therefore may not necessarily mean the lowest bid received.

3. Competitive bidding.

"Competitive bidding" means the process of obtaining the bid most advantageous to the Town for any purchase, whether through formal or informal bidding procedures.

4. Informal bid.

"Informal bid" means a written or oral quotation obtained from an approved vendor but not required to be opened publicly at a specified day, place and time

5. Field purchase.

“Field purchase” means a purchase of supplies needed in small quantities for day-to-day operation made directly by a Department Head or his/her designated representative from any vendor.

6. Formal bid.

“Formal bid” means a written quotation obtained in a sealed envelope from an approved vendor or through advertisement and opened at a specific day, place and time

7. Cooperative purchase.

“Cooperative purchase” means a purchase made by the Town in conjunction with or from another governmental or quasi-governmental agency, such as but not limited to, the State of Maine, Greater Portland Council of Governments, SAD 57, Southern Maine Regional Planning, the Water District or another municipality.

8. Purchase.

“Purchase” means buying, renting, leasing or otherwise acquiring equipment, supplies or services for a price.

9. Purchasing Agent.

“Purchasing Agent” means the Town Administrator or the Town Administrator’s designee.

10. Services.

“Services” means the lease or rental of all grounds, buildings, offices, space or equipment required by the Town, the repair or maintenance of equipment or real property owned by or the responsibility of the Town and all labor furnished to the Town by persons, firms, individuals or corporations not part of or connected with Town government. “Services” shall include professional services provided to or for the Town by lawyers, architects, engineers, auditors and consultants. “Services” shall not include utilities such as electricity, water and phone service.

11. Specifications.

“Specifications” means standards, including quality, set by department heads as a guide to the Purchasing Agent and as a measure of that which successful vendors must achieve. Specifications shall be either technical specifications for bids, which shall state formulations as broadly as practicable, yet shall be specific enough to describe the requirements of the department or non-technical specifications for bids, which shall state the quality required in general terms.

12 Supplies.

"Supplies" shall mean all supplies, materials and equipment.

Section 3. Applicability.

This regulation shall apply to purchases made by departments and agencies of the Town, except as otherwise specified herein.

Section 4. Appropriation.

Neither the Purchasing Agent, if separate from the Town Administrator, nor any Department Head shall make any purchase or allow any purchase to be made until a purchase order therefor has been approved by the Town Administrator as per the Town of Waterboro Purchase Order/Payment Ordinance.

Section 5. Purchase Limits.

1. A Department Head or the Department Head's designated representative may make field purchases when the total purchase price for goods or services being purchased is \$500.00 or less if budget funds are available. All field purchases made under this section must be reported to the Purchasing Agent in writing within 3 days thereafter.
2. Purchase orders are necessary for all purchases and must be obtained prior to the purchase.
3. Once a bill of lading or invoice is received, the bill will be matched with the purchase order during the bill review by the appropriate Department Head and submitted to the Town Administrator who will then forward it to the Town Treasurer. The invoice shall include the purchase order, packing slip and shall have the proper account number and vendor number. Items not accompanied by an invoice or purchase order will not be paid and will be returned to the appropriate Department Head and must be resubmitted in a timely manner to avoid any late/finance charges.
4. If the purchase order is for an amount over \$1,000.00 but under \$5,000.00, and is an item that was included in the department's budget, the Town Administrator can approve the Purchase Order. If the request is over \$1,000.00 and is for an item that was not included in the department's budget, the purchase order must be approved by the Board of Selectmen at a regular or special meeting.

5. Appropriate documentation of the item being in the budget must be provided with the purchase order.

Section 6. Competitive Bidding.

1. Competitive bidding shall be required for all purchases of \$5,000.00 or more unless specifically exempted by this Policy or by action of the Board of Selectmen.
2. Informal bidding procedures shall be allowed when a purchase is required to be by competitive bidding if the total purchase price is less than \$2,500.00, unless the Purchasing Agent recommends use of formal bidding procedures. (amended 12/2/08)
3. Formal bidding procedures shall be followed by the Purchasing Agent in all other cases when competitive bidding is required by this Policy.
4. The Purchasing Agent may make cooperative purchases without competitive bidding if the Purchasing Agent determines the purchase is being made after competitive bidding by the cooperative entity or a price more advantageous than the Town would be likely to obtain by competitive bidding.
5. The Purchasing Agent may waive the requirements for competitive bidding for purchases of \$2,500.00 or less in cases of emergency or when the purchase is inappropriate for competitive bidding due to the nature of the item, time constraints or other factors, provided that the Purchasing Agent shall file a full and complete statement of the reasons for waiving competitive bidding. In such an instance, the Purchasing Agent shall be responsible to file a full and complete statement of the reasons for waiving the competitive bidding requirements with the Board of Selectmen, if so requested. (amended 12/2/08)

Section 7. Procedure for Formal Bidding

The procedure for formal bidding shall be as follows:

1. Invitation for Bids. The Department Head or Purchasing Agent shall prepare the invitation for bids, describing the Town's requirements clearly, accurately and completely, but avoiding unnecessarily restrictive specifications or requirements that might unduly limit the number of bidders. The term "invitation for bids" means the complete assembly of related (whether

attached or incorporated by reference) material furnished to prospective bidders for the purpose of submitting sealed bids. The Purchasing Agent shall determine that the requirements of the Town are clearly and accurately and completely stated within the invitation to bid. Every invitation to bid shall note that all purchases are subject to the conditions set forth in Section 11.

2. The Department Head or Purchasing Agent shall publicize the invitation for bids through distribution to prospective bidders, posting on the bulletin board at the Town Office and in the office of the department(s) involved, advertising in a newspaper with local and/or regional circulation, or such other means as the Purchasing Agent determines is appropriate at least fourteen calendar days prior to the time set for public opening of sealed bids.
3. All bidders shall include with their bid a list of their relevant qualifications, credentials and references.
4. Bidders shall submit sealed bids to the Town prior to the date and time specified for the opening of the bids. Late bids shall not be accepted and no bidder shall be permitted to withdraw a bid after the deadline for bids specified in the invitation to bidders.
5. Bids shall be publicly opened at the time and place specified in the invitation to bid. Bidders are permitted to attend the opening, but shall not be permitted to amend their bid or comment on other bidders' proposals. A contract shall be awarded to the responsible bidder whose bid conforms to the invitation to bid and will be the most advantageous to the Town. Awards may be made conditionally pending verification of a bidder's credentials and review of references for the bid received and/or tabled if consultations with department heads are deemed necessary, but no negotiations, other than minor clarifications, of submitted bids shall be allowed.
6. Nothing in this section shall preclude the Town from rejecting any and all bids as provided in Section 11 of this Policy or awarding the bid at a later date, to the second low bidder if the low bidder's credentials and references cannot be substantiated.

Section 8. Procedure for Informal Bidding

1. The Department Head or the Purchasing Agent shall solicit bids either by written notice sent to approved vendors, posting on appropriate Town bulletin boards or by advertisement in a newspaper(s) having at least local circulation. The notice shall contain specifications as to the quantity and quality required, the availability of bid packages or other details, and the date and time when bids must be received. If bids will be opened publicly and read, the notice shall also specify the date, time and location where they will be opened and read. Any solicitation or advertisement shall note that all purchases are subject to the conditions set forth in Section 11.
2. All bids shall quote delivered prices, terms of payment and cash discounts if applicable. If oral quotations are accepted, the Purchasing Agent or the Department Head shall make a record of the quotations. The person from whom the quote is received, and the date and time the quote is received by the Town shall be recorded.
3. The Purchasing Agent or Department Head shall attempt to solicit at least three approved vendors on every purchase subject to informal bid procedures. If less than three bids are received, or if in the opinion of the Department Head or the Purchasing Agent no bids are acceptable, rebidding may be required.
4. In all cases the bid most advantageous to the Town, price, quality and other factors being considered, shall be awarded.

The following factors should be considered in awarding each bid:

- a. The stated bid price.
- b. The ability, capacity and skills of the bidder to perform the contract or provide the purchase within the time specified without delay or interference.
- c. The character, integrity, judgment, experience and efficiency of the bidder.
- d. The quality of performance in previous contracts or purchases.
- e. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the purchase.
- f. Quality, availability and adaptability of the contract or purchase.
- g. The ability of the bidder to provide future maintenance service on the items to be purchased.

- h. Responsiveness to the scope of conditions attached to the bid.

Section 9. Request for Proposals

All contracts for professional or consulting services, unless exempted by Town Ordinance, must be negotiated through a request for proposals, as long as there are already appropriated sufficient funds for the services. The only exception to the RFP process would be for an unfunded professional services contract to be authorized directly by the Board of Selectmen, such as for unbudgeted, one time only, services by lawyers, architects, engineers, auditors and consultants.

A request for proposals (RFP) is primarily solicited for professional services, such as engineering, legal or consultant work. An RFP can also be solicited for equipment, such as a fire engine or mowers, or design/installation type jobs, such as an alarm system. All RFP's for an anticipated cost of \$10,000.00 or greater must be sent to at least three potential proposers, unless a case can be made for a sole source due to an emergency or particular expertise. To initiate an RFP, the Department Head should send written project information and/or specifications to the Purchasing Agent who will work with the Department Head to develop a proposal package and advertising. RFP specifications should include the following information:

- a. Purpose of the RFP.
- b. Performance specifications, such as deadlines.
- c. Minimum qualifications, if any.
- d. Notice of pre-proposal conference, if any.
- e. Criteria to be used in evaluation of responses.

Vendors requesting clarification of specifications must submit questions in writing to the Purchasing Agent no later than five working days prior to the opening date. Responses which alter the specifications will be issued through an addendum by the Purchasing Agent; Department Heads should not respond directly to vendor questions. The town must insure that any substantive information given to a single potential applicant be given to all potential applicants.

Contracts for professional services awarded through the RFP process should have a term of no longer than three years, unless waived by the Board of Selectmen.

Section 10. Changes to Contracts and Purchase Orders

After a purchase is awarded, there may be desired changes to the original cost and/or terms. A change to a purchase order must be communicated to the Purchasing Agent.

The Department Head will contact the vendor and issue an amendment to the original order. These occurrences should be rare, as products should be bid as desired.

A change to a contract can be in one of two forms:

- a. A change to a contract can be made with an amendment, drafted by the Town's attorney. The Purchasing Agent should be informed of any amendments to be made. The Board of Selectmen must endorse all contract amendments.
- b. A change to a contract can also be made with a change order, provided that such change order is authorized by the terms of the contract. Change orders are primarily for construction contracts or any contracts including per item pricing. All change orders also must be endorsed by the Purchasing Agent.

Approvals should be obtained BEFORE work is actually done. In instances of public or employee safety, written approvals can be obtained after the fact. For any other instances where prior approvals may not be possible, communications must be made with the Purchasing Agent, and appropriate approvals must be obtained immediately after the fact.

In both cases, the current purchase order must be changed or a new one created.

Section 11. Administrative Procedures and Conditions

Competitive Bids shall be administered by the Purchasing Agent and shall be subject to the following conditions:

1. The Department Head or Purchasing Agent shall keep a record of all bids submitted and such records shall be opened to proper inspection by any person.

2. All bidders shall be notified in writing of bid results within ten days after the bids are opened.
3. Tie bids shall be resolved by the Board of Selectmen.
4. All bids shall be awarded on the basis of bid most advantageous to the Town.
5. The Town reserves the right to accept or reject any or all bids, to investigate the qualifications of any bidder, and to waive or not waive any and all informalities in any bids when making an award.
6. If an award is to be made to other than the low bidder, the Purchasing Agent shall be responsible to file a full and complete statement of the reasons for determining that the low bid was not the bid "most advantageous to the Town", together with all papers relating to the bidding process, upon the request of the Board of Selectmen.
7. The Town shall retain custody of all bid materials submitted to the Town pursuant to this policy.

Section 12. Duties of Department Heads.

1. Determine acceptable quality of commodities and supplies to be purchased.
2. Cooperate with the Purchasing Agent in establishing lists of approved specifications and vendors.
3. Share knowledge of special factors which will implement a policy designed to enable the Town to minimize the cost and maximize quality.
4. Supply the Purchasing Agent with a list of estimated annual requirements of frequently used supplies, to facilitate correct accounting charges during the month of June so that they are in place at the beginning of the new fiscal year. In conjunction with this, the department head shall be responsible to maintain an inventory of the supplies within his/her department.
5. Report to the Purchasing Agent any items which are beyond their use, which need to be replaced and/or which are no longer of use to departmental operations.

6. Prepare purchase orders with an eye toward cooperative purchasing and keep corresponding records to facilitate correct accounting charges.
7. Be empowered to reject any unacceptable supply or commodity on the ground of high cost or low quality, and provide the Town Purchasing Agent a written detailed report of any rejection.
8. Department Heads shall choose vendors on the basis of responsibility, quality and competitive pricing.

Section 13. Non-Performance by Vendor or Contractor

Departments experiencing problems with any vendor or contractor should notify the Purchasing Agent in writing of those problems. Purchasing Agent will keep track of such issues to aid in researching qualifications on future bids/RFP's.

The time for notification about unsatisfactory performance of a vendor/contractor is during the contract period; waiting until the same party is a successful bidder on a subsequent project does not guarantee the town's ability to reject that company. The rejection of a bid or RFP under these circumstances requires a documented history of poor service or performance.

Section 14. Prohibition on Self Dealing

No person authorized to act on behalf of the Town shall enter into any agreement, contract of purchase order with any individual, firm, corporation, or organization in which said person has a financial interest. This shall also include the acceptance of any gift or gratuity, directly or indirectly from any person, firm, corporation or organization to which any purchase order or contract is, or might be, awarded, any rebate, gift or anything of value whatsoever, except where given for the express use or benefit of the Town of Waterboro.