

Town of Amherst Purchasing Policy

Section 1. Purpose

Municipalities expend substantial sums of money each year carrying out the many functions and services that they provide. They also must dispose of surplus property from time to time. Taxpayers have a right to expect that the municipality's operations be carried out efficiently and expeditiously with adequate financial control and accountability. At the same time vendors should have a reasonable right to equal opportunity to provide the goods and services that are used by the government if they can provide an equivalent product or service and a competitive price.

The objective of this policy is to attempt to strike a balance between the need for department operating efficiency and flexibility, the need for financial control and accountability and the need to provide reasonable opportunity for all qualified vendors and citizens to compete for the Town's business and/or purchase its surplus materials or property. It is also the purpose of this policy to encourage joint and bulk purchasing among departments and agencies wherever such purchasing practices achieve better pricing without significantly degrading quality or operational efficiency.

This policy shall be known as the "Town of Amherst Purchasing Policy" and may be cited as such.

Section 2. Definitions

For the purposes of this Policy, the following terms, phrases, words and their derivations shall have the meanings ascribed to them in this section:

2.1 BID MOST ADVANTAGEOUS TO THE TOWN - Not necessarily the low bid; in addition to price, the quality of the commodity, the bid meeting Town specifications, the commodity's warrantee, speed of delivery, and the demonstrated service record of the vendor must be considered in determining the "bid most advantageous to the town."

2.2 COMPETITIVE BIDDING - The documented process of achieving the lowest bid or the bid most advantageous to the town for the goods and services desired by the town.

2.3 EMERGENCY PURCHASE - A purchase necessitated by a threat to public health, safety or to property.

2.4 FIELD PURCHASE ORDER - The direct purchase by a department head from a vendor of supplies needed in small quantities for day-to-day operation.

2.5 GOODS AND SERVICES - The complete array of purchases of the town, including but not limited to; supplies, commodities, equipment, construction materials and labor, consulting services, and training.

2.6 GROUP PURCHASE - A purchase made by the Town by grouping two (2) or more departmental requisitions in one (1) purchase order.

2.7 INFORMAL BIDS – Quotations, written and oral, received from a vendor by means other than a formal Request for Proposal (RFP) or Request for Quotation (RFQ) process.

2.8 LIST OF APPROVED VENDORS - The list of vendors who have qualified to bid on town purchases on the basis of responsibility, quality, delivery and performance.

2.9 PURCHASE AMOUNT - The total cost of goods or service including all determinable associated costs, e.g. construction, engineering, delivery, setup and training. Where the purchase consists of small frequent charges, the aggregate twelve-month cost of goods or services shall be used to determine the amount of a purchase and the applicability of the specific sections of the Purchasing Policy. For multi-year lease agreements, the total multi-year cost shall be used to determine the amount of the purchase, and the total cost shall determine the applicability of the specific sections of the Purchasing Policy.

2.10 QUALIFIED VENDOR – A vendor who agrees to the terms of payment of the Town of Amherst and demonstrate quality, timely delivery, and quality performance.

2.11 SEALED FORMAL BIDS - Quotations from all vendors that are submitted in sealed envelopes, properly labeled and received by the Town prior to any specified deadline.

2.12 SPECIFICATIONS - The qualitative standards set by department heads as a guide to the Town Administrator and Board of Selectmen and as a measure of quality and quantity that successful vendors must achieve to be considered for award. Specifications shall not restrict purchases as to trade name or eliminate bids being submitted on items that have the same specifications but not as to a specific trade name.

Section 3. Appropriations

3.1 No purchases shall be made until such time as the Board of Selectmen has approved the necessary appropriation and signed the weekly manifest, or in the case of federal or state grants to the town, the grant award has been received. The Town Administrator shall verify the availability of funds to be used for a purchase greater than five thousand dollars (\$5,000) for approval by the Board of Selectmen. The Town Accountant shall certify the availability of funds of all purchases approved by the Board of Selectmen prior to their vote.

3.2 All goods and services in an amount greater than five thousand dollars (\$5,000) shall be requisitioned by department heads to the Town Administrator to be forwarded to the Board of Selectmen on a prescribed requisition form to be provided by the Town Accountant.

3.3 Field purchases for one thousand dollars (\$1,000) and under may be executed by informal, direct purchasing by the Department Head.

3.4 In addition, field purchases may be executed for emergency purchases up to but not exceeding five thousand dollars (\$5,000). A report of such emergency purchases must be sent to the Town Administrator within seventy-two (72) hours of the emergency.

3.5 Field purchases may be made only on field purchase order forms provided and approved by the Town Accountant.

3.6 The Town Accountant's copy of the field purchase order shall always be turned in to the Town Accountant within seventy-two (72) hours of the time the purchase is made.

3.7 Field Purchase Orders should not be used for small frequent purchases of the same commodity if it is known or estimated that the aggregate twelve-month cost of such purchases would exceed one thousand dollars (\$1,000). Re: Purchase Amount definition.

3.8 Department Heads shall take the appropriate steps to attain the best pricing practical when using field purchase orders.

Section 4. Bidding Requirements

4.1 INFORMAL BIDDING REQUIREMENTS.

The Department Head, shall conduct and document informal, competitive bidding for purchases over one thousand dollars (\$1,000) and under five thousand dollars (\$5,000). A minimum of three quotes will be solicited whenever possible. A written quote from vendors shall be required for purchases from five thousand dollars (\$5,000) and under ten thousand dollars (\$10,000). The informal competitive bids will be submitted to the Town Administrator for review and submission to the Board of Selectmen. Informal bidding may be employed by the Department Head when requested by the Town Administrator where the purchase price is fewer than one thousand dollars (\$1,000).

4.2 FORMAL BIDDING REQUIREMENTS.

Each Department Head in conjunction with the Town Administrator shall advertise and conduct competitive, formal, sealed bidding pursuant to specifications on file in his/her office for purchases of goods and services of ten thousand dollars (\$10,000) or more in accordance with section 7 of the Purchasing Policy.

4.3 OPTIONAL PURCHASING METHODS.

Notwithstanding any other provision of this policy to the contrary, the following methods may be employed for the purpose of purchasing goods and services.

4.3.1. EMERGENCY WAIVER OF BIDDING REQUIREMENTS - The bidding procedures may be waived by the Board of Selectmen when there exists an emergency as determined by the Town Administrator and/or Board of Selectmen. All attempts shall be made to obtain the most competitive price within the time available. The Department Head shall report all such emergency purchases to the Town Administrator to present to the Board of Selectmen at their next regular meeting.

4.3.2 PURCHASES MADE THROUGH STATE; STATE BID PRICES - The Department Head may, with approval by the Town Administrator and/or Board of Selectmen, waive bidding procedures when purchasing through the State of New Hampshire or at State bid prices but not superseding Section 6.1. The bid requirements may apply, at the discretion of the Town Administrator and/or Board of Selectmen.

4.3.3 BLANKET PURCHASES - The Town Administrator is empowered to bid and award blanket purchase orders for goods and services at an agreed price and/or quantities, but in quantities delivered and paid for as needed, subject to other provisions of the Purchasing Policy.

4.3.4 CHANGE PURCHASE ORDERS - The Town Administrator is empowered to issue change purchase orders for changes in scope or quantity of an existing purchase. The change purchase amount is subject to other provisions of the Purchasing Policy.

4.3.5 REQUESTS FOR PROPOSALS (RFP) - The Town Administrator may solicit competitive proposals if he/she determines that compiling detailed technical specifications is not feasible or advantageous. Solicitation and award of RFPs is subject to other provisions of the Purchasing Policy.

4.3.6 REGIONAL PURCHASING - The Town Administrator and Department Heads may participate in solicitations to bid conducted by the Town or another town or Town Administrator where the goal is to bid for goods and services for more than one town or town subject to other provisions of the Purchasing Policy and approval of the Board of Selectmen.

Section 5. Exceptions

5.1 EXCEPTION REPORTING - The Department Head shall report apparent exceptions to the bidding and award requirements to the Town Administrator for submission to the Board of Selectmen.

5.2 EXEMPTIONS TO BIDDING AND APPROVAL REQUIREMENTS. - Payments exempt from the bidding and Board of Selectmen approval requirements due to their nature or other statutory provisions include:

- 5.2.1 Utility consumption costs including electrical, natural gas, water and sewer.
- 5.2.2 Telephone call charges.
- 5.2.3 Advertising.
- 5.2.4 Postage.
- 5.2.5 Federal, state and local taxes.
- 5.2.6 Court judgments.
- 5.2.7 Workers Compensation claims.
- 5.2.8 Debt service payments.
- 5.2.9 Police special investigative costs where disclosure may jeopardize an investigation.

Section 6 Approval of Purchases by the Board of Selectmen

6.1 All purchases of goods and services of ten thousand dollars (\$10,000) or more shall be approved, rejected or negotiated by majority vote of the Board of Selectmen prior to the awarding of such purchases.

Section 7 Competitive Bidding Procedure

7.1 Competitive bidding will open with notice from the Town Administrator by notice of solicitations for bidding, which shall be sent to vendors, and/or by advertising. The notice shall contain specifications as to the quantity and quality, date and time at which bidding shall be closed and the date and time at which bids shall be opened and read and the purchase awards made. All solicitations shall note that all purchases are subject to the conditions set forth in the Town Purchasing Policy.

7.2 The Department Head in conjunction with the Town Administrator shall solicit at least three (3) vendors on every purchase requiring bidding; provided, however, that in all cases a bid most advantageous to the town shall be awarded. In the event that less than three (3) bids shall be received, the Board of Selectmen may either award the purchase on the basis of the best bid of those submitted or shall order a re-bid on that item.

7.3 Technical specifications for bids shall state information as broadly as practicable, yet shall be specific enough to describe the requirements of the department. Non-technical specifications for bids shall state the quality required in general terms.

7.4 Formal, sealed bids shall be submitted by qualified vendors before that stated deadline, and may be withdrawn by any bidder before the deadline. After the deadline the Town Administrator shall receive no further bids, and no bidder shall withdraw a bid. The town shall have custody of all bids submitted pursuant to this Policy.

7.5 In accordance with RSA 447:16¹, the Town Administrator shall require security from vendors for construction projects estimated to be in excess of \$25,000. The elements of a purchase to be secured include, but are not limited to, the following:

7.5.1 BID PRICE - To insure a margin above the bid price, from the time of bid opening until signing of the contract, in case of default by the bidder. The amount is used to offset the cost of accepting the next lowest qualified bidder. Minimum of 10% of bid price.

7.5.2 PERFORMANCE - To insure compliance with and completion of the contract. 100% of contract.

7.5.3 LABOR AND MATERIAL PAYMENT - To insure payment to suppliers and subcontractors by the contractor. 100% of contract.

7.6 The form of the security will be prescribed by the Town Administrator and acceptable by the Town Attorney and Town Accountant and can consist, but is not limited to, bonds issued by surety companies licensed within the United States, certified checks and irrevocable letters of credit at banks acceptable to the Town.

7.7 The Town Administrator may include security requirements for projects less than \$25,000 and in other types of purchases where doing so is determined to be in the best interests of the Town.

7.8 In the event of a tie for low bid by equally qualified bidders where one bid is not considered a bid most advantageous, the following rules shall apply to the tied bidders:

7.8.1 Preference for award shall be given first to any bidder who is located within Amherst. If none of the bidders are located in Amherst preference shall then be given to any bidder located within the State of New Hampshire.

7.8.2 If preference cannot be determined the Town Administrator shall, in the presence of such bidders if possible or in the presence of a witness, draw lots to determine who shall be awarded the bid in accordance with the Town Purchasing Policy.

7.9 The Town Administrator shall open bids, read them in public, inspect them and process for award. In determining the low bid or the bid most advantageous, the Town Administrator shall, whenever possible, analyze the bids so that the bids are compared on an equal basis.

7.10 The competitive bid procedure may be waived by a majority vote of the Board of Selectmen.

Section 8. Re-bidding

8.1 The Town Administrator is authorized to solicit the re-bid for any or all items that have been noticed for bidding where less than three bids have been received, notwithstanding solicitations seeking the same, or where no bid most advantageous to the town has been received.

Section 9. Contract Processing

9.1 The Town Administrator is designated as the contracting officer of the town unless otherwise designated by vote of the Board of Selectmen. Execution of a contract or contract change order accompanying a purchase order or purchase change order greater than one thousand dollars (\$1,000) shall occur only after the contract has been reviewed as to form by the Town Attorney and funding confirmed by the Town Accountant. Purchases involving contracts are subject to all other provisions of the Purchasing Policy.

Section 10. Conditions of Purchase

10.1 All purchases made by the town shall be subject to the following conditions:

10.1.1 All purchases shall be awarded on the basis of the lowest bid meeting specifications or the bid most advantageous to the town and meeting specifications.

10.1.2 All purchases shall be subject to the reservation of the right by the town to accept or reject any or all bids.

10.1.3 When an award of purchase shall be recommended to other than the lowest qualified bidder, the Town Administrator shall submit such recommendation to the Board of Selectmen for approval or disapproval. Should the Board of Selectmen reject such recommendation, the award shall be made to the lowest responsible bidder, unless all bids are rejected.

Section 11 Duties of Department Heads

11.1 All Department Heads shall:

11.1.1 Determine acceptable quality and quantity of commodities and supplies to be purchased.

11.1.2 Assist the Town Administrator and the Town Accountant in establishing lists of approved specifications and vendors.

11.1.3 Share knowledge of special factors that will implement a policy designed to enable the town to minimize cost and maximize quality.

11.1.4 Supply the Town Administrator with a list of estimated annual requirements of frequently used supplies, thereby fostering group purchasing.

11.1.5 Prepare requisitions with a view toward group purchasing and keep corresponding records to facilitate debiting on town financial records.

11.1.6 Be empowered to reject any unacceptable supply or commodity on grounds including high cost or low quality, and provide the Town Administrator with a detailed written report explaining the reasons for such rejection.

Section 12 Obsolete Fixed Assets

12.1 All department heads shall report, twice annually (or other such deadline as determined by the Town Administrator) to the Town Administrator obsolete and excess fixed assets, including:

12.1.1 Items beyond use.

12.1.2 Items being replaced or to be replaced and are not traded.

12.1.3 Obsolete items.

Section 13 Exchange for Goods and Services

13.1 Any transfer of town assets, waiving or abatement of fees, or performance of town services in exchange for goods and services to be received by the town shall be deemed a purchase and shall be subject to the provisions of the Purchasing Policy as determined by the fair market value of the town assets, fees, and/or services being exchanged.

Adopted by vote of Board of Selectmen, May 21, 2001.

Section 14 Conflicts of Interest

14.1 No employee of the town shall solicit the favorable treatment of himself or others with vendors customarily bidding for town purchase awards, nor shall any employee accept any gift from any vendor interested in obtaining town purchases, except for an advertising token of insignificant value.

Section 15 Implementation

15.1 To Facilitate conduct in accordance with this policy, a copy of this policy shall be made available to town officials, employees, volunteers, board and commissions upon hiring, appointment or election to office and at such other times as may be necessary.

Adopted by vote of the Board of Selectmen on this date, the 21st of May 2001.

Robert Heaton, Chairman

Maryelizabeth Crocker, Vice-Chairman

Marilyn Peterman, Selectman

Steven A. Desmarais, Selectman

Jay Dinkel, Selectman

Received and Recorded: _____, 2001

Nancy A. Demers
Town Clerk

ⁱ **447:16 Bond Required.** - Officers, public boards, agents or other persons who contract in behalf of the state or any political subdivision thereof for the construction, repair or rebuilding of public buildings, public highways, bridges or other public works shall if said contract involves an expenditure of \$25,000, and may if it involves an expenditure of less amount, obtain as a condition precedent to the execution of the contract, sufficient security, by bond or otherwise, in an amount equal to at least 100 percent of the contract price, or of the estimated cost of the work if no aggregate price is agreed upon, conditioned upon the payment by the contractors and subcontractors for all labor performed or furnished, for all equipment hired, including trucks, for all material used and for fuels, lubricants, power, tools, hardware and supplies purchased by said principal and used in carrying out said contract, and for labor and parts furnished upon the order of said contractor for the repair of equipment used in carrying out said contract. **Source.** 1927, 88:2. RL 264:26. 1943, 182:1, par. 26. 1949, 71:1. 1953, 253:3. RSA **447:16.** 1979, 28:1. 1981, 4:5, eff. March 6, 1981.