

TOWN OF WINDHAM MUNICIPAL PURCHASING POLICY

Section 1. Purpose

The purposes of this policy are to standardize the purchasing procedures of the Town of Windham 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.

In general, persons authorized to make purchases on behalf of the town are expected to take all reasonable steps to ensure the best value for the least amount of money. The degree of effort expected is in direct proportion to the price or value of the good(s) or service(s) being purchased. Where the town is enrolled in corporate, or similarly advantageous, purchasing programs, they are to be used unless the good or service can be purchased for less or, where time is of the essence, received sooner- except that purchases should be planned far enough in advance to make such instances uncommon. Particularly when making major purchases of durable equipment or vehicles, authorized purchasers are expected to determine whether other alternatives are available which satisfy the need – i.e. used, reconditioned, or leftover stock. They are also expected to document their efforts in this regard prior to seeking purchasing agent or Town Council approval.

This policy is adopted pursuant to the provisions of the Charter; Article II, Section 2(D) relating to the Council's assignment of duties "to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office"; Article III, Section 2(A)(5) which makes the town manager "responsible for its [the annual budget and capital program] administration after adoption"; and Article III, Section 2(A)(9) which designates the town manager as purchasing agent "for all departments of the Town except the School Department" who shall "provide, in the case of the School Department, for cooperative purchasing arrangements where feasible, and shall submit to competitive bids any transaction in excess of the amount annually set by order of the Council."

Section 2. Definitions

The following terms are defined for the purposes of this policy:

- 1. 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, and not necessarily the lowest bid received.

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2. **Competitive purchasing.** “Competitive purchasing” means the process of obtaining the proposal most advantageous to the Town for any purchase, whether through quotation or formal bidding procedures.
3. **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, the School Department, or another municipality.
4. **Field purchase.** “Field purchase” means an informal purchase of supplies needed in small quantities for day-to-day operation made directly by a Department Head or his designated representative from any vendor.
5. **Formal bid.** “Formal bid” means a written quotation obtained in a sealed envelope from a prospective vendor or through advertisement and opened at a specific day, place and time.
6. **Informal bid.** “Informal bid” means a written or oral quotation obtained from a prospective vendor but not required to be opened publicly at a specified day, place and time.
7. **Professional Services.** “Professional Services” means services provided to or for the Town by licensed professionals such as lawyers, architects, engineers, auditors and consultants.
8. **Purchase.** “Purchase” means buying, renting, leasing, or otherwise acquiring supplies or services for a price.
9. **Purchase Order.** “Purchase Order” means the form specified by the Purchasing Agent for the purpose of identifying the vendor, item(s) purchased, quantities, prices, terms, and budgetary account(s) to be charged.
10. **Purchasing Agent.** “Purchasing Agent” means the Town Manager or the Town Manager’s designee.
11. **Quotation.** “Quotation” means a written or oral proposal obtained from a prospective vendor.
12. **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

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not part of or connected with the Town government. "Services" shall not include Professional Services, or utilities such as electricity, water, and phone services.

13. **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.
14. **Supplies.** "Supplies" shall mean all supplies, materials and equipment. The term "goods" may be used interchangeably with "supplies" in this policy.

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 nor any Department Head shall make any purchase or allow any purchase to be made until an appropriation therefor has been approved by the Town Council.

Section 5. Purchase Limits

1. **Under \$1,000.00.** Department heads or designated representatives may make field purchases without purchase orders when the total purchase price for the goods or services being purchased is less than \$1,000.00 provided, however, that invoices and other necessary payment information is provided to Accounts Payable as required by the Purchasing Agent.
2. **From \$1,000.00 to \$10,000.00.** Written purchase orders authorized by the appropriate department head shall be required for purchases of more than \$1,000.00 but not more than \$10,000.00.
3. **Over \$10,000.00.** Written purchase orders authorized by the department head shall be filed with the Finance Director for any purchase over \$10,000.00 up to the amount provided for such purchase within the municipal operating budget or approved capital equipment replacement plan.
4. **Council Approval.** The Town Council shall approve and authorize any purchase beyond the amount provided for such purchase within the municipal operating budget or approved capital equipment replacement plan,

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and all purchases which are proposed to be funded through a lease-purchase agreement, the issuance of bonds or notes, or any other kind of credit financing.

5. **Required for Payment.** Except for purchases under \$1,000.00 purchase orders shall be required to accompany invoices for any purchase made under this policy, and shall be delivered to the finance office for payment following verification of the information on the invoice and that the items, goods, or services therefor were received.

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Section 6. Competitive Purchasing

1. **Over \$2,500.00.** Competitive purchasing procedures shall be required for all purchases in excess of \$2,500.00 unless specifically exempted by this Policy or by action of the Town Council.
2. **Under \$7,500.00.** Competitive quotes shall be required when a purchase is required to be by competitive bidding if the total purchase price is less than \$7,500.00, unless the Purchasing Agent recommends use of formal bidding procedures.
3. **Over \$7,500.00 and Otherwise.** Formal bidding procedures shall be followed by the Purchasing Agent in all other cases when competitive bidding is required by this Policy.
4. **Professional Services.** No competitive purchasing or bidding procedure is required for purchases of Professional Services not anticipated to exceed \$25,000 in a given twelve-month period, unless otherwise required by law or an applicable grant or financing agreement. If a purchase of Professional Services is anticipated to exceed this limit, formal bidding procedures shall be followed for initial procurement. Additional contract terms may be entered at the discretion of the Purchasing Agent without using competitive purchasing or bidding procedures. It is understood that in the procurement of professional services, skill, experience and reputation are often of more significant importance than price, and the Purchasing Agent is to have discretion to place such additional weight on those criteria as may be warranted under the circumstances.
5. **Cooperative Purchasing.** 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 at price more advantageous than the Town would be likely to obtain by competitive bidding.
6. **Credit Cards.** Town-issued credit cards may be used for authorized purchases, but are otherwise subject to the provisions of this policy. Examples of purchases which may be made by credit card are, but are not limited to, gas

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purchases, conference and travel expenses, meals, supply items. All expenditures must be accompanied by valid receipts and are subject to review by the purchasing agent prior to payment. Credit cards also are subject to limits as determined by the purchasing agent.

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7. **Waiver.** The Purchasing Agent may waive the requirements for competitive bidding for purchases of \$25,000.00 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. The Purchasing Agent shall file a statement of the reasons for waiving the competitive bidding.

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8. **Documentation.** For each purchase made pursuant to this section the Purchasing Agent shall maintain documentation including, but not limited to:

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- A copy of the request for quotes or bids,
- A copy of any specifications, scope of work, or other information regarding the nature and extent of the purchase,
- Copies of all quotes or bids, and
- Copies of information regarding alternatives to the purchase sought (i.e. overhauling or reconditioning, purchasing a used, reconditioned, or leftover item, etc.)

for a period of not less than one (1) year and in such form and manner as the Purchasing Agent may require. Warranties and other related information shall be maintained for as long as the town owns the covered item(s) or the duration of the warranty.

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Section 7. Procedure for Competitive Quotes.

The procedure for informal bidding by competitive quotes shall be as follows:

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1. The Department Head or the Purchasing Agent shall solicit competitive quotes either by written notice sent to prospective 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 quantity and quality required, the availability of quotation packages or other details, and the date and time when quotes must be received. If quotes 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 9.
2. All quotes shall state 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 quotation. 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 prospective vendors on every purchase subject to competitive quote procedures. If fewer than three quotes are received, or if in the opinion of the Department Head or the Purchasing Agent no bids are acceptable, repeating the quote process may be required.
4. In all cases the quote most advantageous to the Town considering, but not limited to, the following factors, shall be awarded:
 - The stated price;
 - The ability, capacity, and skills of the vendor to provide the purchase within the time specified without delay or interference;
 - The character, integrity, judgment, experience, and efficiency of the vendor;
 - The quality of performance of previous purchases;
 - The sufficiency of the bidder's financial resources and ability to provide the purchase;
 - Quality, availability, and adaptability of the purchase;
 - The ability of the vendor to provide future maintenance services on the item(s) to be purchased;
 - The number and scope of conditions attached to the quote; and
 - Where quotes are received for the same total amount, with quality and service being equal, preference shall be given to vendors located in Windham. Where two or more local vendors have tie bids, the award shall be determined by the vendor submitting a premium offer if such an offer is made.

Section 8. Procedure for Formal Bidding

The procedure for formal bidding shall be as follows:

1. 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 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 9 hereof.
2. The Department Head or Purchasing Agent shall publicize the invitation for bids through distribution to prospective bidders, posting on the bulletin board at Town Hall 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

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Purchasing Agent determines is appropriate at least five (5) calendar days prior to the time set for public opening of sealed bids.

3. Bidders shall submit sealed bids to the Town prior to the date and time specified for the opening of 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.
4. Bids shall be publicly opened at the time and place specified in the invitation to bid. 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. Award may be delayed pending verification of a bidder's credentials and references or review of the bids received.
5. When deemed necessary by the Purchasing Agent, bid deposits may be required. Unsuccessful bidders shall be entitled to return of any bid deposit, while the successful bidder shall forfeit the bid deposit upon failure on their part to enter into an agreement for performance under their bid within ten (10) days after award.
6. Nothing in this section shall preclude the Town from rejecting any and all bids as provided in Section 9 of this Policy.

Section 9. Administrative Procedures and Conditions

Competitive quotes and bids shall be administered as required by this policy 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 vendors shall be notified in writing of the results within ten days after quotes or bids are opened.
3. Tie bids shall be resolved by the Town Manager except that if the price exceeds \$25,000.00, the Town Council shall resolve the tie.
4. All quotes or bids shall be awarded on the basis of the bid most Advantageous to the Town.
5. The Town reserves the right to accept or reject any or all quotes or bids, to investigate the qualifications of any vendor, and to waive or not waive any and all informalities in the quotes or bids when making an award.
6. If an award is made to other than the low bidder, the Purchasing Agent shall

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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 the bidding process.

7. The Town shall retain custody of all quotes, bids, and materials submitted to the Town pursuant to this policy.

Section 10. Duties of Department Heads

Department heads are expected to:

1. Practice economy in the use of materials, goods, and services.
2. Maintain property and equipment in serviceable condition.
3. Determine acceptable quality of commodities and supplies to be purchased.
4. Ensure compliance by employees with purchasing policies and procedures.
5. Cooperate with the Purchasing Agent in establishing lists of approved specifications and vendors.
6. Share knowledge of special factors which will implement a policy designed to enable the Town to minimize cost and maximize quality.
7. Supply the Purchasing Agent with a list of estimated annual requirements of frequently used supplies, thereby fostering cooperative purchasing.
8. Prepare requisitions with an eye toward cooperative purchasing and keep corresponding records to facilitate correct accounting charges.
9. 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.
10. Department Heads shall choose vendors on the basis of responsibility, quality, prior experience with providing goods and/or services to the town, reputation, and references from other municipalities or customers.
11. Report to the Purchasing Agent the following:
 - Items beyond use
 - Items being replaced or to be replaced
 - Items no longer of use to department operations

The Town Manager, after review with appropriate staff, may dispose of surplus equipment through sale or auction. Items will be posted on the Town's

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website. All bids shall be subjected to the Town's right to reject any and all bids submitted, to waive any formality in any proposal, that in its sole discretion, appears to best serve the interests of the municipality. Payment for any item shall be cash. The Town Manager may also grant permission for surplus equipment to be traded in for new replacement equipment.

12. Plan future purchases to provide ample time to secure favorable prices and terms, and to minimize direct purchases.
13. Inspect and accept supplies or services received, determining that they are as specified and satisfactory before acceptance, notify the finance office of such receipt and acceptance, including whether the item(s) or service(s) have been received in part and what remains to be received.

Adopted July 28, 2009, _Council Order 09-105

Amended July 10, 2018, Council Order 18-122; Addition of Professional Services to

Section 2 – Definitions and Section 6 – Competitive Purchasing

Amended March 10, 2020, Council Order 20-###; Section 10-11. – Addresses Disposition of

Surplus Equipment

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