

# **TOWN OF DURHAM**

## **MUNICIPAL PURCHASING POLICY**

**Adopted September 11, 2012 by the Durham Board of  
Selectmen**

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MUNICIPAL PURCHASING POLICY  
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**TOWN OF DURHAM  
MUNICIPAL PURCHASING POLICY**

**Section 1. Purpose**

The purpose of this regulation is to standardize the purchasing procedure of the Town of Durham, 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 as approved vendors for bidding purposes.
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, RSU #5, AVCOG 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, building, 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, and phone services.
11. Specifications  
“Specifications” means standards, including quality, set by department heads as a guide 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 department and agencies of the Town, except as otherwise specified herein.

### **Section 4. Purchase Limits**

1. A Department Head or the Department Head’s designated representative may make field purchases, for items that were included in the departments operating budget, when the total purchase price for goods or services being purchased is \$5,000 or less if budget funds are available.

2. If the field purchase is for an amount over \$5,000 and is an item that was included in the departments operating budget, the Town Administrator can approve the purchase. If the field purchase is over \$1,000 and is for an item that was not included in the department's operating budget, then approval must be done by the Board of Selectmen at a regular or special meeting. The Board of Selectmen will specify which section of this policy will be followed, i.e. Section 7, Section 8, Section 9.
3. Any purchase outside of the departments operating budget (i.e. Capital Budget) will require prior approval by the Board of Selectmen.
4. Once a bill of lading or invoice is received, the bill will be reviewed 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 (if applicable), 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.

#### **Section 5. Cooperative Purchases**

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.

#### **Section 6. 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 submitted 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, the Town's local channel and website, 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 a 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 7. 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 website, and Town local channel. 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 8. Request for Proposal**

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, 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 or road project. All RFP's for an anticipated cost of \$10,000 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. 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.

When a Vendors request for clarification of specifications alters the specifications, an addendum will be issued to all vendors. 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 9. Changes to Contracts**

After a purchase is awarded, there may be desired changes to the original cost and/or terms. A change to an award must be communicated to the Town Administrator.

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 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.

### **Section 10. 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 of bid results 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 11. 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 or special factors which will implement a policy designed to enable the Town to minimize the cost and maximize quality.
4. Purchases are made with an eye toward cooperative purchasing.
5. Department Heads shall choose vendors on the basis of responsibility, quality and competitive pricing.

### **Section 12. Non-Performance by Vendor or Contractor**

Departments experiencing problems with any vendor or contractor should notify the Town Administrator in writing of those problems. The Town Administrator 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 13. Prohibition on Self Dealing**

No person authorized to act on behalf of the Town shall enter into any agreement, contract of purchase 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 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 Durham.

END OF POLICY

