



PURCHASING POLICY

TOWN OF WHITINGHAM

Adopted July 17, 2019

PURPOSE. The purpose of this Purchasing Policy is to obtain the highest quality goods and services for the Town of Whitingham at the lowest possible price, to exercise financial control over the purchasing process, to clearly define authority for the purchasing function, to allow fair and equal opportunity among qualified suppliers, and to provide for increased public confidence in the procedures followed in public purchasing.

AFFIRMATIVE ACTION AND LOCAL PREFERENCE. Whenever possible, qualified small, minority and women-owned businesses shall be included in the solicitation lists for bids or non-bid purchases. If the purchase is **federally** funded in whole or in part, minority and women owned businesses must be included in the solicitation lists and all other affirmative action requirements outlined in the grant provisions must be followed. The town may exercise a preference for local businesses for purchases funded exclusively by the town but only if such a preference does not result in unreasonable prices or rates due to a lack of competition. For purchases funded in whole or in part with federal funding the town may not exercise a preference for local businesses.

CODE OF CONDUCT. Employees, officers and agents of the town who are involved in the procurement and selection of purchases and services shall make reasonable efforts to avoid real, apparent, or potential conflicts of interest. No employee, officer or agent of the town shall participate in selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following have a financial or personal interest in the firm/vendor selected for award:

- the employee, officer or agent,
- any member of his or her immediate family,
- his or her partner, or
- an organization which employs, or is about to employ, any of the above.

An employee, officer or agent of the town who is involved in the procurement and selection of a purchase or service and who has a real or apparent conflict of interest must disclose that conflict of interest before the selection or purchase takes place. Such disclosure must be documented and shall be retained as part of the official record surrounding the selection or purchase.

Officers, employees and agents of the town will not solicit nor accept gratuities, favors or anything of monetary value over \$20 from contractors, potential contractors, or parties to sub-agreements.

Officers, employees and agents who fail to follow the above Code of Conduct may be sanctioned or disciplined, to the extent permitted by law, for violations of the above standards.

DOCUMENTATION. Records documenting the procurement process for any Competitive Pricing selections, as defined below, including the reason for the specific procurement method chosen, the basis for the award and contract pricing (showing evidence that the process was fair and equitable), as well as any other significant decisions that were part of the procurement process shall be maintained for a period of at least three years from the date of the submission to the federal government of the final expenditure report if the purchase or project was funded with **federal** grants, or until the completion of any litigation, claim, negotiation, audit, or other action involving the records, whichever is longer. Otherwise, records shall be maintained by the town in accordance with the retention and disposition schedules set by the Vermont State Archivist.

PURCHASING AUTHORITY. The following employees/elected officials are designated to act as Purchasing Agents for the town:

Town Clerk, Treasurer, Road Commissioner, Selectboard Office Administrator, Municipal Employee, Sewer Plant Chief Operator and Fire Chief, or their designee.

The Town Hill Committee is also authorized to make purchases.

COMPETITIVE PRICING. The following guidelines have been established to assist purchasing agents in determining the extent of effort needed to obtain competitive prices for individual or recurring purchases and/or services:

\$2,000-\$10,000: At least two verbal quotes/estimates should be requested and documented with the bill submitted for payment by the purchasing agent, including a description of the work to be performed, vendor, date and amount of the quote/estimate. Purchasing agents are empowered to make a selection when utilizing verbal quotes/estimates if within department budget.

\$10,001-\$15,000: At least two written quotes/estimates should be requested and documented with the bill submitted for payment including a description of the work to be performed, vendor, date, and amount of quote/estimate. Purchasing agents shall review the written quotes and make a selection if it falls within department budget. If the amount exceeds department budget the purchasing agent shall bring their recommendation to the Selectboard.

\$15,001 to \$24,999: At least three written bids (actual amount to be paid by the town/not an estimate). Purchasing agents shall open the bids, record their contents, seek clarification from the vendor if necessary, summarize and make a recommendation to the Selectboard.

\$25,000 and over: Must follow the Sealed Bid Process outlined below.

Any expenditures from **special funds** over \$10,000 must follow the Sealed Bid Process.

If **federal** funding is used for purchases between \$10,000 (\$2,000 in the case of construction projects subject to Davis Bacon requirements) and \$250,000, price or rate quotes must be obtained from two or more qualified sources following the affirmative action provision of this policy and all provisions regarding fair and unrestricted competition.

Purchases at or exceeding \$250,000 or construction projects of any value that are funded with **federal** dollars must follow a sealed bid process as outlined below and also follow any procurement guidance as outlined in the grant agreement. In addition, a pricing analysis must be completed by the purchasing agent or a qualified consultant prior to issuing the request for proposal to ensure that there is a reasonable estimate against which to compare bid proposal pricing.

SEALED BID PROCESS (\$25,000 and over). The Sealed Bid Process shall be initiated by the issuance of a Request for Bids prepared by the department head, the Selectboard or a designee. Notice of the Request for Bids should be made by letters to known providers, advertisements posted in three public locations within the town, on the town website and/or advertisements placed in a newspaper of general circulation in the region.

SEALED BID SPECIFICATIONS. A list of sealed bid specifications shall be prepared for each purchase of \$25,000 and over and shall be submitted to the Selectboard for review before posting. Bid specifications should include:

1. Bid name.
2. Bid submission deadline.
3. Date, location, and time of bid opening.
4. Specifications for the project or services including quantity, design, and performance features.
5. Bond and/or insurance requirements.
6. Any special requirements unique to the project or purchase.
7. Delivery or completion date.
8. The recurring nature of the purchase/services, if any.
9. For construction projects, language that sets a requirement for a bid guarantee in the amount of 5% of the bid price from all bidders, as well as performance and payment bonds in the amount of 100% of the contract price from the contractor awarded the bid. If federally grant funded, the bidders must also include costs for Davis Bacon compliance if that is a requirement of the federal agency providing the funding.
10. For construction projects over \$2,000, a statement that contractors will be provided with a copy of the most current wage determination (from the DOL website at <http://www.wdol.gov/dba.aspx>) and must comply with the Davis Bacon Act.
11. The following language must be included: "***The Selectboard reserves the right at its sole discretion to reject any and all bids, wholly or in part, to waive any informalities or any irregularities therein, to accept any bid even though it may not be the lowest bid, to call for rebids, to negotiate with any bidder, and to make an award which in its sole and absolute judgment will best serve the town's interest. The Selectboard also reserves the right to investigate the financial condition of any bidder to determine his or her ability to assure***

service throughout the term of the contract. Vendors are encouraged to attend sealed bid opening.

SEALED BID SUBMISSION. All sealed bids must be submitted in sealed envelopes, addressed to the town in care of the Selectboard, and plainly marked with the name of the bid and the time of the bid opening. Bid proposals should be date stamped on the outside of the envelope immediately upon receipt. Any bid may be withdrawn in writing prior to the scheduled time for the opening of bids. Any bids received after the time and date specified shall not be considered and shall be returned to the bidder unopened.

Bidders shall bid to specifications and any exceptions must be noted by the bidder. A bidder submitting a bid thereby certifies that the bid is made in good faith without fraud, collusion, or connection of any kind with any other bidder for the same work, and that the bidder is competing solely on his/her behalf without connection with or obligation to any undisclosed person or firm.

SEALED BID OPENING. Every sealed bid received prior to the bid submission deadline will be publicly opened on the date and time specified in the bid request and read aloud at a warned Selectboard meeting. The bid opening will include the name of bidder; for lump sum contracts, the lump sum base bid and the bid for each alternate; for unit price contracts, the unit price for each item and the total, if stated; and the nature and the amount of security furnished with the bid if required.

CRITERIA FOR SEALED BID SELECTION. In evaluating bids, the Selectboard will consider the following criteria:

1. Price.
2. Bidder's ability to perform within the specified time limits.
3. Bidder's experience and reputation, including past performance for the town.
4. Quality of the materials and services specified in the bid.
5. Bidder's ability to meet other terms and conditions, including insurance and bond requirements.
6. Bidder's financial responsibility.
7. Bidder's availability to provide future service, maintenance, and support.
8. Contract provisions that are acceptable to the town.
9. Recommendation of the department supervisor.
10. Any other factors that the Selectboard determines are relevant and appropriate in connection with a given project or service.

*In addition to the above, in the case of a contract supported by **federal** funds, the additional criteria shall apply:*

- There shall be no preference exercised for local contractors or suppliers.
- Minority and women-owned businesses must be included in the solicitation list for the request for proposal.
- The Selectboard will not select a bidder who is listed on the Excluded Parties List System website (<https://www.sam.gov>).

SEALED BID CHANGE ORDERS. If specification changes are made prior to the close of the Sealed Bid Process, the Request for Bids will be amended, and notice shall be sent to any bidder who already submitted a bid and a new bid process will be initiated. Once a bid has been accepted, if changes to the specifications become necessary, the Selectboard or department head will prepare a change order specifying the scope of the change. Once approved, the contractor and an authorized agent of the town must sign the change order.

EXCEPTIONS. The following exceptions may apply, however there must be written documentation created and maintained that outlines the process and rationale for such exceptions:

Competitive Proposals. If time does not permit the use of Sealed Bid Process, or the award will be made on the basis of non-price related factors, a competitive pricing process shall be initiated by the issuance of a Request for Bids (RFB) or Request for Qualifications (RFQ) prepared by the Selectboard or its designee that includes the factors that will be used to evaluate and compare the proposals. Bids or qualifications shall be obtained from an adequate number of qualified sources (at least two vendors) to ensure that the town has received a fair and reasonable price and all notification and record keeping requirements of the Sealed Bid Process shall be followed. If architectural or engineering services are being solicited, this process should be used with the most qualified firm or individual awarded the bid and price or fees negotiated after the award. If competitive proposals are used, all of the above steps in the Sealed Bid Process should be followed except that: 1) the bid submission need not be sealed; and 2) price will not be the primary factor in the proposal selection.

Sole Source Purchases. If the Selectboard determines that there is only one possible source for a proposed purchase or service, it may waive the Competitive Pricing Process and authorize the purchase from the sole source.

Recurring Purchases. If the total value of a recurring purchase or service is under \$15,000 during any fiscal year, the appropriate Competitive Pricing Process shall be utilized and shall specify the recurring nature of the purchase. Once a bid has been accepted, all future purchases shall be made from that bidder if the price has not changed, without necessity of additional quotes/bids, until such time as the Selectboard votes to initiate a new process.

Emergency Purchases. The Selectboard, Road Commissioner, Fire Chief, Emergency Management Director and Sewer Plant Chief Operator may award contracts and make purchases for the purpose of meeting a public emergency without complying with the Competitive Pricing Process. Emergency expenditures may include immediate repair or maintenance of town property, vehicles, or equipment if the delay in such repair or maintenance would endanger persons or property or result in substantial impairment of the delivery of important town services.

Professional Services. The bid process shall not apply to the selection of providers for services that are characterized by a high degree of professional judgment and discretion including legal, financial, auditing, risk management, and insurance services with a value to be determined by the Selectboard at the time of need.

Repair Parts. Purchase of repair parts is acknowledged to be a unique purchase requirement, often necessitated by the need to purchase from a sole source vendor. The requirement for Competitive Pricing Process is waived and it is understood that the purchasing agent will make a good faith attempt to follow the guidelines with respect to other purchase limits.

Specific Exemptions:

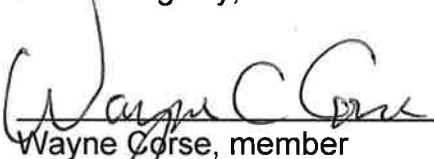
1. State Bids
Purchasing agents have the option to accept (piggyback on) any state competitive bid awards for various services, products and/or equipment or they may seek and accept lower prices.
2. Heating Fuel, Summer Diesel, Winter Diesel
These products traditionally require a quick decision, the Selectboard may appoint a member to negotiate pricing or they may hold an emergency meeting.

Selectboard Waiver. The Selectboard shall be authorized to waive the requirements of this policy whenever conformance is not possible, deem a waiver in the best interest of the town, whenever conformance would significantly impair the ability of the department to carry out its responsibilities, or it makes common sense. All waivers shall be documented in Selectboard Minutes.

The foregoing Policy is hereby adopted by the Selectboard of the Town of Whitingham, Vermont, this **17th day of July 2019** and is effective as of this date until amended or repealed.

Robin Kingsley, Chair


Wayne Wood, Vice Chair


Wayne Corse, member


Craig Hammer, member


Scott Reed, member