

Town of Amherst



Purchasing Policy

Effective May 21, 2001

Revised December 9, 2019 & January 22, 2024.

Town of Amherst **Purchasing Policy**

Section 1. Purpose

The Town of Amherst expends substantial sums of money each year carrying out the many functions and services that it provides. Taxpayers have a right to expect that the Town's operations be carried out efficiently and expeditiously with adequate financial control, transparency, 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 Town if they can provide an equivalent product or service and a competitive price. Nothing in this policy is meant to supersede existing State of New Hampshire RSA's pertaining to purchasing of goods and services by Town departments.

Section 2. Objectives

- 2.1 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.
- 2.2 Encourage joint and bulk purchasing among departments and agencies wherever such purchasing practices achieve better pricing without significantly degrading quality or operational efficiency.
- 2.3 Consider the use of State contracts and other qualified cooperative purchasing contracts for goods and services, wherever possible, as such contracts may provide savings to the town.

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

Section 3. 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:

- 3.1 **Approved Vendor** – Suppliers of supplies and services who have done business with the Town of Amherst. The Board of Selectmen shall remove certain vendors when recommended by the Town Administrator or Department Head with just cause. The Board of Selectmen may also remove a vendor without recommendation with just cause. The Finance Director shall maintain a current vendor list.
- 3.2 **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."

- 3.3 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, whether through formal or informal bidding procedures.
- 3.4 Direct Purchase** – The direct purchase by a Department Head from a vendor of supplies or services needed in small quantities for day-to-day operations.
- 3.5 Emergency Purchase** - A purchase necessitated by a threat to public health, safety or to property.
- 3.6 Formal Bid** – A written quotation obtained in a sealed envelope from an approved vendor or through advertisement and opened at a specific day, place, and time.
- 3.7 Goods** - The complete array of purchases of the town, including but not limited to; supplies, commodities, equipment, construction materials and labor.
- 3.8 Group Purchase** - A purchase made by the Town by grouping two (2) or more departmental requests in one (1) purchase.
- 3.9 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 and not required to be opened publicly at a specified date, time, and location.
- 3.10 Project** – A large or major undertaking, especially one involving considerable money, personnel, and equipment that is contemplated, devised, or planned in a scheme of things.
- 3.11 Purchase** – Buying, renting, leasing, or otherwise acquiring goods or services for a price.
- 3.12 Purchase Amount** - The total cost of goods or services 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.
- 3.13 Purchase Order** - A document which authorizes a vendor to deliver goods or provide a service, and which assures that public funds for such goods or services will be encumbered for future payment.
- 3.14 Qualified Vendor** – A vendor who agrees to the terms of payment of the Town of Amherst and demonstrates quality, timely delivery, and quality performance.

- 3.15 Services** – The lease or rental of all grounds, buildings, offices, space, or equipment required by the town, the repair or maintenance of all 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, professional services such as legal, engineering or accounting not part of or connected with the Town government.
- 3.16 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 an 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 4. Authority

This policy is adopted by the Board of Selectmen in accordance with RSA 31:39²: Powers and Duties of Towns”, and in accordance with RSA 41:8³ and RSA 41:9⁴ “Choice and Duties of Town Officers”, as it relates to their management of the Town’s prudential affairs and their authority over expenditures.

Section 5. Purchase Amounts less than \$5,000

- 5.1** Purchases of five thousand dollars (\$5,000) or LESS may be executed by direct purchasing by the Department Head with no further approval.
- 5.2** Department Heads shall take the appropriate steps to attain the best pricing practical when using direct purchases.
- 5.3** Direct purchases should not be used for small, frequent purchases of the same commodity if it is KNOWN or ESTIMATED that the aggregate twelve-month costs of such purchases would exceed five thousand dollars (\$5000).

Section 6. Purchase Amounts between \$5,001 and \$10,000

- 6.1** Purchases between \$5,001 and \$10,000 require the Department Head to conduct and document informal competitive bidding. No further pre-approval is required.

Section 7. Purchase Amounts between \$10,001 and \$25,000

- 7.1** Purchases between \$10,001 and \$25,000 require the Department Head to conduct informal competitive bidding and the written quotes from vendors shall be submitted to the Town Administrator for approval.

7.2 Emergency purchases up to but not exceeding twenty-five thousand dollars (\$25,000) may be executed without utilizing the informal competitive bidding process. A report of such emergency purchases must be sent to the Town Administrator within seventy-two (72) hours of the emergency.

7.3 Upon denial of a purchase by the Town Administrator, Department Heads may appeal the decision to the Board of Selectmen.

Section 8 Purchase Amounts Above \$25,000

8.1 Each Department Head, in conjunction with the Town Administrator, shall advertise and conduct competitive, formal, sealed bidding pursuant to specifications on file in their office for purchases of goods and services of more than twenty-five thousand dollars (\$25,000) in accordance with Section 11 of the Purchasing Policy.

8.2 All purchases of goods and services of more than twenty-five thousand dollars (\$25,000) shall be approved, rejected, or negotiated by majority vote of the Board of Selectmen prior to the award of such purchases.

Section 9 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.

9.1 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 immediately to the Town Administrator for presentation to the Board of Selectmen at their next regular meeting.

9.2 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. This section does not supersede Section 8.2. At the discretion of the Town Administrator and/or Board of Selectmen, the bid requirements may apply.

9.3 Purchases Made Through Cooperative Purchasing Agreements - The Department Head may, with approval by the Town Administrator and/or Board of Selectmen, waive bidding procedures when purchasing through cooperative purchasing agreements previously approved by the Board of Selectmen. This section does not supersede section 8.2. At the discretion of the Town Administrator and/or Board of Selectmen, the bid requirements may apply.

- **9.3.1** The Finance Office shall maintain a list of pre-approved cooperative purchasing agencies and contract agreements.

9.4 Blanket Purchases - The Town Administrator is empowered to bid and award blanket purchases for goods and services at an agreed upon price and/or quantities, but in quantities delivered and paid for as needed, subject to other provisions of the Purchasing Policy.

- 9.5 Requests for Proposals (RFP)** - The Town Administrator, or their designee, may solicit competitive proposals if they determine that compiling detailed technical specifications is not feasible or advantageous. Solicitation and award of RFPs is subject to other provisions of the Purchasing Policy.
- 9.6 Regional Purchasing** - The Town Administrator, or their designee, 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 towns subject to other provisions of the Purchasing Policy and approval of the Board of Selectmen.

Section 10. Exceptions

- 10.1 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.
- 10.2 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:
- 10.2.1** Utility consumption costs including electrical, telephone, cable/internet expenses, natural gas, water, and sewer.
 - 10.2.2** Advertising.
 - 10.2.3** Postage.
 - 10.2.4** Federal, state, and local taxes.
 - 10.2.5** Court judgments.
 - 10.2.6** Workers Compensation claims.
 - 10.2.7** Debt service payments.
 - 10.2.8** Police special investigative costs where disclosure may jeopardize an investigation.
 - 10.2.9** Contractual Agreements – Including ongoing equipment and software service agreements which have previously been approved through the budgeting process; ongoing independent contractor agreements such as snowplowing; assessing; auditing; and legal services.
 - 10.2.10** Winter road salt purchases.
 - 10.2.11** Human Service payments.
 - 10.2.12** Payments made on behalf of employees as part of their job description/training.

Section 11 Competitive Bidding Procedure

- 11.1** Competitive bidding will open with notice from The Town Administrator, or their designee, 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, the date and time at which bidding shall be closed, and the date and time at which bids shall be opened and read. The notice shall also describe when the purchase awards will be made. All solicitations shall note that all purchases are subject to the conditions set forth in the Town Purchasing Policy.
- 11.2** The Town Administrator, or their designee, 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 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.
- 11.3** Technical specifications for bids shall state information as broadly as is 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.
- 11.4** 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 Department Head or 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.
- 11.5** In accordance with RSA 447:16, the Town Administrator, or their designee, shall require security from vendors for construction projects estimated to be in excess of \$75,000. The elements of a purchase to be secured include, but are not limited to, the following:
- 11.5.1 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.
- 11.5.2 Performance** - To insure compliance with and completion of the contract. 100% of contract.
- 11.5.3 Labor and Material Payment** - To insure payment to suppliers and subcontractors by the contractor. 100% of contract.
- 11.6** The form of security will be prescribed by the Town Administrator, or their designee, and be found to be acceptable by the Town Attorney and Finance Director. The security can consist of, 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.
- 11.7** The Town Administrator, or their designee, may include security requirements for projects less than \$75,001, and in other types of purchases, when doing so is determined to be in the best interests of the Town.
- 11.8** 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:

- 11.8.1** Preference for award shall be given first to any bidder who is located within Amherst. If none of the bidders are from Amherst preference shall then be given to any bidder located within the State of New Hampshire.
- 11.8.2** 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.
- 11.9** The Town Administrator, or their designee, shall open bids, read them in public, inspect them, and process the award. In determining the low bid or the bid most advantageous, the Town Administrator or their designee shall, whenever possible, analyze the bids so that the bids are compared on an equal basis.
- 11.10** The competitive bid procedure may be waived by a majority vote of the Board of Selectmen.

Section 12. Re-bidding

- 12.1** 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 13. Conditions of Purchase

- 15.1** All purchases made by the town shall be subject to the following conditions:
 - 15.1.1** 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.
 - 15.1.2** All purchases shall be subject to the reservation of the right by the town to accept or reject any or all bids.
 - 15.1.3** When an award of purchase shall be recommended to someone other than the lowest qualified bidder, the Town Administrator or their designee shall submit a recommendation to the Board of Selectmen for approval. Should the Board of Selectmen reject a recommendation, the award shall be made to the lowest responsible bidder unless all bids are rejected.

Section 16 Duties of Department Heads

- 16.1** All Department Heads shall:
 - 16.1.1** Determine acceptable quality and quantity of commodities and supplies to be purchased.
 - 16.1.2** Assist the Town Administrator in establishing lists of approved specifications and vendors.

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

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

16.1.5 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 17 Exchange for Goods and Services

17.1 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.

Section 18 Conflicts of Interest

18.1 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 19 Implementation

19.1 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 18 ^{March} day of 2023.

Danielle Pray, Chairman

William Stoughton, Vice-Chair

Thomas Grella, Member

Peter Lyon, Member

Cynthia Dokmo, Member

Received and Recorded on March 20, 2024

Nancy A. Demers, Town Clerk

