

PURCHASING POLICY
TOWN OF ORFORD
REV. 2 Adopted 04/05/2023

1. INTRODUCTION

- a) This policy is intended to provide the policies and procedures necessary for the conduct of purchasing activities for the Town of Orford. This policy is designed to:
 - 1) Encourage maximum competition through fair and equal opportunity to those qualified and interested bidders.
 - 2) Provide a uniform procedure for the procurement of material, equipment, supplies, and services.
 - 3) Ensure that the taxpayers are getting the "best overall value" for their dollars.
 - 4) Clearly confirm that the Selectboard is responsible for purchases.
 - 5) Apply to all Town Departments, Committees and Commissions under the authority of the Selectboard.
- b) The governing board for the Free Library is encouraged to follow the principles of this policy.
- c) This policy does not apply to real estate or the hiring of someone as an employee of the Town.

2. DEFINITIONS:

- a) Best overall value: Not necessarily the low bid; in addition to price, the quality of the commodity and the service reputation of the vendor must be considered in determining the "best overall value" to the Town.
- b) Informal quotations: Quotations obtained from the vendor in writing, not sealed.
- c) Formal bid: Quotations from all vendors which are submitted in sealed envelopes.
- d) RFP: Request for Proposal
- e) RFQ: Request for Qualifications
- f) SOQs: Statement of Qualifications
- g) Major purchase: any single purchase or expected annual purchase of a single item, or combination of like items, equal to or greater than \$25,000.
- h) Non-major purchase: any single purchase or expected annual purchase of a single item, or combination of like items between \$2,500 and less than \$25,000.
- i) Minor purchase: any single purchase or expected annual purchase of a single item, or combination of like items less than \$2,500.
- j) Blanket Purchase: Agreement made to purchase goods or services at an agreed price and or quantities, but in quantities delivered and paid for as needed. An agreement usually lasting one year or one season. Subject to the other provisions of the Purchasing Policy.
- k) Group or bulk purchase: Items from more than one Department purchased at one time
- l) Town Office: Office of the Selectboard, Orford Town Office, 2529 Highway 25A, Orford, NH, 03777.
- m) Minor surplus Town item: An item under \$2,500 used value.
- n) Non-major surplus item: An item in used value between \$2,500 and \$25,000.
- o) Major surplus item: An item of used value greater than \$25,000.
- p) Receiver: Any document available at the time of receipt used to record receipt of an item. Examples: packing list, copy of charge slip, e-mailed shipping notice, copy of invoice.
- q) Direct solicitation: Solicitation requests made directly from the Town to a potential supplier. No posting or advertising requirements apply.

- r) Department Head: The officer, employee, board or commission which, under state law or local ordinance, is responsible for policy and management within a department of the Town for which a departmental budget has been appropriated as part of the adopted Town budget.

3. PURCHASING PROCEDURES

- a) All purchases which are within the purposes and amounts of line item appropriations contained in a departmental budget as enacted at Town Meeting (including budgeted grants) shall be considered authorized, and may be completed by the Department Head, in accordance with the procedures in this Policy, unless the Selectboard has ordered otherwise due to changes or issues during the year. All purchases not within the purposes and amounts of a departmental budget shall require Selectboard authorization prior to purchasing.
- b) All purchases require prior approval by the Department Head.
- c) Some of the factors considered when determining the "best overall value" are:
 - 1) Price
 - 2) Quality
 - 3) Warranty
 - 4) Service
 - 5) Availability
 - 6) Past Performance and past services with Town of Orford
 - 7) References
- d) If the potential seller or contractor is a Town employee, elected official, or town appointee, then RSA 95:1 applies: Competitive bidding is required if the goods or services exceed \$200.
- e) Invoices must be approved by Department Head, signed, dated and specifically marked "OK" to pay or "OK to pay as amended or noted". If not authorized an explanation must be written. Each invoice for goods must have a document indicating when it was received, signed by the individual who received it and the condition it was in when received. This "receiver" will be attached to the invoice. (See definitions for examples).
- f) Grants may have requirements that are to be considered in addition to Town requirements.
- g) Group or Bulk purchases are encouraged to help lower costs.
- h) **Under \$2,500** (Minor purchase) Department Heads are encouraged to do whatever is practical to secure competitive pricing from multiple sources. An e-mail, fax, verbal, catalog, or website cost reference can be utilized to document pricing. This documentation is retained by the Department Head.
- i) **\$2,500.00 to less than \$25,000:** (Non-major purchase) Written specifications by the Department Head, are required prior to solicitation. Direct solicitation is allowed. Informal written quotations from at least three sources must be obtained. (See possible exemption below). Faxed or e-mailed quotations are acceptable. Copies of supporting documents shall be maintained by the Department Head. The Town Administrator must verify that funds (i.e. budget, appropriation, grant) are available for the purchase prior to the purchase by the Department Head. The Selectboard may waive the requirement for three informal quotations being submitted if the Department Head can demonstrate a good faith effort to obtain them in writing. The Department Head shall notify the Selectboard of the purchase at the next Selectboard meeting regularly attended by the Department Head.

- j) **\$25,000 and over:** (Major purchase) (required per 2012 article 11) is considered a major purchase. The formal sealed bid process is used for major purchases. (See sections 4 and 5).

4. BID PROCESS

- a) All major purchases authorized by the Selectboard and/or Town Meeting shall be subject to the bid process.
- b) The bid process shall be initiated by the issuance of a solicitation for bids.
- c) Notice of the solicitation for bids shall be made in the following ways:
 - 1) Letters directly to known providers soliciting bid responses. Letters may be transmitted electronically, including e-mail, and fax; or delivered by an individual, US Postal system, or other delivery service. Delivery need not be confirmed.
 - 2) Individuals and firms interested in being informed of competitive purchasing opportunities may contact the Town Administrator and be placed on the Town's potential bidders list.
 - 3) Advertisements shall be posted in three (3) public locations within the Town of Orford. (Required per 2012 article 11) by the Town Administrator.
 - 4) Advertisements shall be placed in local newspapers (two). (Required per 2012 article 11) by the Town Administrator. Advertisement expense is charged to the Department.
 - 5) Advertisements shall be electronically distributed on the Town web site and maybe also posted on Orford local list serve by the Town Administrator.
- d) The Department Head is responsible for establishing the bid specifications, which shall include the following and be approved by a majority of the Selectboard before solicitation.
 - 1) Bid name.
 - 2) Bid Submittal Deadline;
 - 3) Date, location and time of bid opening;
 - 4) Actual specifications for the item(s), project or services, including quantity, quality, design and performance features, future maintenance and support, etc.;
 - 5) Bond requirements as appropriate:
 - I) Bid bond: guarantees that the bidder will enter the contract for the bid amount
 - II) Contractor's Performance Bond: guarantees performance
 - III) Payment Bond: guarantees the contractors payment to subcontractors
 - 6) Insurance requirements:
 - i) The provider shall maintain at all times during the life of this contract the following insurance coverage. The provider must also require its subcontractors to maintain such coverage.
 - ii) Workers Compensation Insurance: the provider shall carry workers compensation insurance as required by the State of New Hampshire.
 - iii) Comprehensive General Liability Insurance: the provider shall maintain a broad form comprehensive general liability insurance policy in an amount of no less than \$1,000,000 combined single limit per occurrence.
 - iv) Motor Vehicle Insurance: The provider shall carry motor vehicle insurance to include bodily injury, property damage, uninsured motorist and employer's non-ownership coverage in an amount of no less than \$1,000,000 combined single limit per occurrence.
 - v) The Town of Orford must be named as an additional insured on the Comprehensive General Liability Insurance Policy and the Motor Vehicle

policies required by the foregoing. Provider shall provide an insurance certificate, in a form acceptable to the Town, confirming the above insurance coverage and such endorsement prior to the commencement of work. The insurance certificate and the underlying insurance coverage shall be issued by the carrier authorized to do business in the State of New Hampshire and having A.M. Best Company rating of "A" or better.

vi) The provider shall have professional insurance/errors and omissions insurance with limits of not less than \$1,000,000 each occurrence where applicable.

vii) A 30-day notice is required for cancellation and/or material change of coverage, sent directly to Town of Orford Selectmen's Office.

7) Payment terms and schedule including amounts or percentages held back until validation of completion.

8) Liquidated damages or penalties for not meeting specifications or requirements.

9) Any special requirements; and

10) Desired delivery or completion date.

e) Once the solicitation for bids has been issued, the bid specification shall be available for inspection at the Selectmen's office.

f) All bids must be submitted in sealed envelopes, addressed to the Town Office in care of the Town Administrator, and plainly marked with the name of the bid and the time of the bid opening.

g) Immediately upon receipt Bid Proposals will be stamped on the outside of the envelope with date and time received.

h) Any bid may be withdrawn in writing prior to the scheduled time for the opening of bids.

i) Any bids received after the time and date specified shall not be considered and shall be returned to the bidder unopened.

j). Every bid received, and not withdrawn, prior to the scheduled closing time for receipt for bids shall be publicly opened and read aloud by a representative designated by the Selectboard. A majority of the Selectboard shall be present.

k) The public opening, at Town Office, and reading of each bid shall be at the time specified and shall include at least the following:

1) Name and address of bidder;

2). For lump sum contracts, the lump sum base bid and, if present, the bid for each alternative presented;

3). For unit price contracts, the unit price for each item and the total, if stated; and

4). The nature and the amount of security furnished with the bid if requested.

5. CRITERIA FOR BID SELECTION

a) In evaluating bids, the Selectboard, Town Administrator and Department Head shall consider the most financially-favorable bid submitted by a responsible bidder whose bid conforms to the bid specifications. In determining whether a bidder is a responsible bidder the following factors may be considered:

1) Any evidence that the bidder may be unable to perform within the specified time limits, or may be unable to comply with other terms and specifications, including insurance and bonding requirements;

- 2) Any relevant experience or reputation bearing on competence and/or integrity, including past performance for Town of Orford;
 - 3) The bidder's nature, size, financial resources;
 - 4) Any other factors the board of Selectmen determines are relevant to a showing of whether a bidder is responsible in the context of a given product or service
- b) A bid whose terms are most financially-favorable shall not be rejected absent an affirmative finding, in writing, that the bidder is not a responsible bidder using the above criteria.
- c) Bidders shall bid to specifications and any exceptions must be noted. 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.
- d) The Selectboard reserves the right to investigate the financial responsibility of any and all bidders to determine the ability of the bidder to assure service throughout the term of the contract.
- e) The Selectboard reserves the right at their sole discretion to reject any and all bids, subject to the provisions of Section 15 of this Policy
- f) The minutes of the meeting at which the selection is made shall indicate the bid selected and the factors upon which the selection was made.

6. ALTERATIONS IN PROJECT OR PURCHASE

- a) Major Purchase:
- 1) If specification changes are made prior to the close of the formal Bid Process, the Request for Bids shall be amended and notice shall be sent to any bidder who already submitted a bid and a new formal Bid Process shall be initiated.
 - 2) Once a formal bid has been accepted, if changes to the specifications become necessary due to circumstances which were not anticipated at the time the bid was accepted, the Department Head must prepare a written change order specifying the scope of the change and a majority of the Selectboard shall approve it. The majority of the Selectboard must approve all change orders by signing a letter of approval of said changes, which will become a public record of the Selectboard and recorded in the minutes (see 2012 article 11) Once approved, the contractor must sign the change order. The approved change order becomes a permanent part of the contract.
- b) Non-Major Purchase:
- 1) To change the purchase requires the same approval steps as the original purchase.
 - 2) Copies of supporting documents are retained by the Department Head.
- c) Minor Purchase:
- a. The Selectboard authorizes the Department Head and Town Administrator to approve change orders for minor purchases where funds are available.

- b. Copies of supporting documents are retained by the Department Head.

7. PROFESSIONAL SERVICE CONTRACTS

a) Major Purchase:

- 1) Either the Request for Proposal (RFP) or the Request for Qualifications (RFQ) process (or a combination) may be used. The primary difference between the two processes is that in the RFP process a specific proposal is received and evaluated. The proposal includes a scope of work and a cost proposal. In the RFQ process, Statements of Qualifications (SOQs) are received and selection is made upon those qualifications. In this process, a mutually acceptable scope of work and contract amount is negotiated with the successful submitter.
- 2) The RFP/RFQ must be approved by the Selectboard, must be in writing and must be posted in the Town's official posting places, and publicly advertised in the local paper of record at least fourteen (14) days prior to the date set for opening. Proposals or SOQs must be submitted to the Town in a sealed envelope marked with the name of the request as indicated in the instructions.
- 3) The public opening at the Town Office, and reading of each proposal, shall be at the time specified and shall include:
 - i) Name and address of the submitter of the proposal;
 - ii) Any lump sum or unit price amounts.
- 4) The proposals shall be analyzed (based upon the "best overall value" to the Town) and documented including any staff recommendations. The award and/or approval of the contract shall be made by the Selectboard majority vote.

b) Non-Major Purchase and Minor Purchase:

- 1) Requirements are the same as Section 3: Purchase Procedure

8. MULTI YEAR CONTRACTS:

- a) The Town may enter into multi-year agreements with qualified vendors, however, no such contract shall be for a duration longer than five years. Any such contract shall include a fiscal funding clause that allows the Town to withdraw from the contractual relationship should the Town, acting in good faith, fail to appropriate enough funds to cover the costs anticipated in the agreement.

9. PUBLIC AUCTION

- a) With the approval of the Selectboard, purchases not qualifying as major purchase may be made through public auction. The Department Head must provide to the Town Administrator, in writing, quotes for like products in order to provide a realistic price comparison. Upon receiving this information, and verifying budget availability, written authorization indicating the amount "not to exceed" may be granted by the Selectboard, allowing the Department Head or their designee to attend the auction and bid on that particular product.

- b) If a purchase is made through a public auction, all documentation must be retained and submitted to the Town Administrator.

10. CASES NOT REQUIRING BIDDING PROCEDURE

- a) The Selectboard may approve a purchase without bid under the following conditions:
 - 1) Item is to be purchased under State or Federal Bid lists.
 - 2) There is only one known source of purchase, and there is no comparable substitute product or service. Written documentation supporting the sole source must be provided.
 - 3) The specific type or brand of supply or part necessary for acceptable operation of a machine or device, or as required by warranty or contract on the machine or device; written documentation supporting the purchase of a specific brand or part necessary for acceptable operation of a machine or device must be provided.
 - 4) An item or service that is required on an emergency basis and does not qualify as a major purchase.

11. EMERGENCY PROCUREMENTS

- a) Emergency Procurements Definition: Emergency procurements may be made when there exists a threat to public health, welfare or safety, provided that such emergency procurement shall be made with such competition as is practical under the circumstances. See 2014 Article 15 for full definition. A copy is located in the reference section of this document.
- b) In case of an emergency requiring immediate purchase of materials, supplies, equipment or services, the Selectboard shall approve such emergency purchase if the situation permits. The Town Administrator shall be notified as soon as possible as to the emergency and the associated purchases. A written determination of the basis of the emergency and for the selection of the particular contractor or vendor shall be forwarded to the Town Administrator. As soon as is practicable, standard-purchasing procedures will be reinstated.

12. ARTIFICIAL DIVISION PROHIBITED

- a) Purchases shall not be artificially divided so as to create lower purchase amounts and therefore avoid some requirements of this policy. Whether or not a proposed purchase constitutes artificial division shall be determined by the Selectboard.

13. EXCEPTIONS

- a) Exceptions will be determined on a case-by-case basis by the Selectboard.
- b) Anticipated exceptions:
 - 1) The bid process shall not apply to the Town's selection of service providers for services that are characterized by a high degree of professional judgment and discretion such as legal services.
 - 2) Financing or borrowing.
 - 3) Police special investigative costs where disclosure may jeopardize investigation. (Those authorized during non-public sessions per RSA 91-A:3,II,(i))
 - 4) Where the Town decides to contract with non-profit organizations for the provision of health, welfare, social or recreational services for the Town to the general public.
 - 5) Where the Town decides to contract with government agencies for the provision of governmental services.

14. LOCAL ADVANTAGE

- a) The Town of Orford will make a reasonable effort, for non-major purchases, to purchase from businesses located within the Town, and then the Upper Valley area if the purchase fits into the category of "best overall value." It must be noted that The Town of Orford has a responsibility to the taxpayers of the Town to ensure that bids are awarded to suppliers offering their products or services at the "best overall value" to the Town.
- b) Major purchase bids cannot be rejected on the basis of Local Advantage unless the location of the vendor is material to the purchase or project and is included in the specifications.

15. CANCELLATION AND REJECTION OF BIDS

- a) An invitation to bid, RFP or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or part, as may be specified in the solicitation when it is in the best interest of the Town. The reasons shall be made part of the formal bid file.
- b) If all bids are rejected after the initiation of a formal bid process as described in Sections 4 and 5 of this Policy, and yet the Town wishes to move forward toward completion of a substantially similar purchase or project, including circumstances where the Town wishes to materially alter the original specifications, all providers who submitted bids in response to the original request for bids shall be notified in writing of the rejection of the bids and be given a reasonable opportunity to submit new bids based upon the altered specifications, if they wish to do so.

16. DISPOSAL OF SURPLUS TOWN ITEMS

- a) Does NOT apply to real property
- b) Minor and Non-Major Surplus Town items shall be made available to other Town departments, at no cost, before making available to "others". Surplus major Town items shall be offered to other Town departments. The Selectboard shall determine conditions for transferring the major surplus item between departments.
- c) **Under \$2,500:** (Minor surplus item) Department Heads are encouraged to do whatever is practical to secure competitive offers to purchase from multiple sources. A written document, fax or an e-mail must be utilized to document pricing. This documentation is retained by the Department Head.
- d) **\$2,500 to less than \$25,000:** (Non-major surplus item) Direct solicitation of offers to purchase is allowed. Informal written offers to purchase from at least three sources must be obtained (See possible exception below). Written, faxed or e-mailed offers are acceptable. Copies of supporting documents must be submitted with any request to dispose of a non-major surplus item to the Selectboard. A decision authorizing disposal of non-major surplus item requires the approval of a majority of the Selectmen. The Selectboard may waive the requirement for three informal offers being submitted if the Department Head can demonstrate a good faith effort to obtain them.
- e) **\$25,000.00 and over:** is considered a major disposal of Town property. The formal sealed bid is used for major disposal of Town property See section 4 and 5 for the bid process.

The Selectboard reserves the right to reject all bids and issue a new request for bids if less than three bids are received. The Selectboard also reserves the right, at their sole discretion, to reject any and all bids.

17. LIST OF POTENTIAL SUPPLIERS- LIST OF BIDDERS FOR SURPLUS PROPERTY

a) Potential Suppliers list

- 1) Prospective suppliers may be listed as potential suppliers to the Town for goods or services.
- 2) The Town Administrator will be responsible for maintaining the list with information provided by the potential supplier. The list will contain, at a minimum: contact information, goods or services offered, and date the information was added or changed. It will be the potential suppliers' responsibility to make sure the listing is complete and up to date. Annual review of data is recommended.
- 3) Suppliers may be added to the list as a result of direct knowledge or experience, solicitation, advertisements or a direct request from a potential supplier.
- 4) Department Heads are encouraged to use the list when considering sources of supply.

b) Potential Bidders list

- 1) Prospective bidders may be listed as a potential bidder for surplus property
- 2) The Town Administrator will be responsible for establishing a prospective bidders list, from information provided, for each item once it is declared surplus. The list will contain, at a minimum: contact information, and date the information was added or changed. The list may be terminated after an item is disposed of.
- 3) Potential Bidders may be added to the list as a result of direct knowledge or experience, solicitation, advertisements or by direct request from a a potential bidder.
- 4) If Department Heads are contacted directly they shall inform the potential bidder to contact the Town Administrator so they may be added to the list.

18. ETHICS IN PUBLIC PURCHASING AND CONTRACTING

- a) It shall be unethical for any Town employee involved in making procurement decisions to have personal investments in any business entity that will create a conflict between their private interests and their public duties. Full disclosure is required. Provisions of RSA 95.1 apply requiring competitive bidding.
- b) It shall be unethical for any person to offer, give, or agree to give any Town of Orford employee, or for any Town of Orford employee to solicit, demand, accept, or agree to accept from any vendor or business, a gift of value or gratuity in ANY amount in connection with any decision, approval, disapproval, or recommendation concerning a solicitation.
- c) Inexpensive advertising items with a value of less than \$5, bearing the name of a vendor, such as pens, pencils, paper weights, cups, candy, calendars, etc., are not considered articles of value or gifts in relation to this policy.
- d) Under no circumstances may any Town employee, Town Committee member or Town Board member use a Town of Orford account membership, account vendor number, or

any other method of making a purchase for personal use under the name of the Town of Orford. Reimbursement arrangements are not allowed under this policy.

19. AUTHORITY

a) These policies are adopted by the Selectboard in accordance with RSA 31:39 as it relates to their management of the Town's prudential affairs and their authority over expenditures.

20. REFERENCES

1) Orford Annual Town Meeting March 13, 2012 Article 11:

The Selectboard must put out to bid any town project or contract that will cost a total of \$10,000 or more. Bids will be advertised in the local newspapers and will be posted in three public places within the Town of Orford.

All bid openings will be opened at a public Selectboard meeting with a majority of the board members present.

All contractors and sub-contractors providing services under the contract shall provide, before work begins, a Certificate of Insurance acceptable to the Town of Orford.

Once the contract is awarded it can only be changed by a majority of Selectboard signing a letter of approval of said changes, which will become a public recorded of the Selectboard minutes.

(APPROVED)

1a) Amendments:

1a1) In an emergency, The Selectboard may enter into contracts without following these procedures.

(DEFEATED)

1a2) The intent of this article is to establish a temporary purchasing policy. This article will be superseded by the Selectboard adoption of a comprehensive purchasing policy.

(DEFEATED)

2) Town of Orford list of Official posting locations:

a) Post Office

b) Town Office building

i) Visible from the outside without needing to enter building or

ii) Exterior secure bulletin board

c) Town of Orford website

d) Town of Orford list serve

3) Town of Orford list of Official newspapers

a) Valley News (White River Junction)

b) Journal Opinion (Bradford)

4) Town of Orford potential suppliers list and potential bidders list.

Contact Town Administrator for current list and location

Revision 1: additional references:

1) Orford Annual Town Meeting March 11, 2014 Article 15:

To see if the Town will vote to modify the action taken under Article 11 of the 2012 Annual Town Meeting to permit the Selectboard to make procurements in

excess of \$10,000, without the otherwise-required advertised sealed bidding process, when in their judgment there exists an emergency requiring the immediate purchase of materials, supplies, equipment or services. For purposes of this article, an emergency means a sudden or unexpected situation or occurrence, or combination of occurrences, of a serious and urgent nature, involving an existing or imminent threat to public health, welfare or safety, which demands prompt or immediate attention, and where the delay entailed by the bidding process would seriously compromise the effectiveness of the response. In all cases the Selectboard shall be required to make the emergency procurement using such completion as is practical under the circumstances.
(APPROVED)

Revision 2: amending definitions:

1) Orford Annual Town Meeting March 14, 2023, Article 15

To see if the Town will vote to modify the Purchasing Policy (action taken under Article 11 of the 2012 Annual Town Meeting), item 2-Definitions, sections g, h, i, m, n, o as follows:

g) Major purchase (requiring a sealed bid): any single purchase or expected annual purchase of a single item, or combination of like items, equal to or greater to be changed from \$10,000 to \$25,000

h) Non-major purchase (requiring 3 estimates be requested): any single purchase or expected annual purchase of a single item, or combination of like items to be changed from between \$1,000 and less than \$10,000 to between \$2,500 and less than \$25,000.

i) Minor purchase (purchase with no prior authorization): any single purchase or expected annual purchase of a single item, or combination of like items to be changed from less than \$1,000 to less than \$2,500.

m) Minor surplus disposal of Town items: An item under \$1,000 to be changed to \$2,500 of used value.

n) Non-major surplus disposal of Town items (requiring 3 estimates be requested): An item in used value to be changed from between \$1,000 and \$10,000 to between \$2,500 and \$25,000.

o) Major surplus disposal of Town items (requiring a sealed bid): An item of used value to be changed from greater than \$10,000 to greater than \$25,000.

(APPROVED)

ADOPTED: 04/05/2023

Selectboard:



John Adams



Jennifer Carter



P. Chase Kling