

CHAPTER VI – PURCHASING POLICY

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CHAPTER VI – PURCHASING POLICY

SECTION I PURPOSE

This policy is authorized under Article 4, Section 4.6 of the Charter of the Town of Londonderry, New Hampshire. The purpose is to ensure the fair and equitable treatment of all persons who deal with the purchasing system of the town; to maximize to the fullest extent practicable the purchasing value of public funds; to obtain in a cost-effective and responsive manner the materials, services and construction required by the town in order to better serve the town’s businesses and residents.

Effective Date

This policy shall be effective immediately upon its adoption by the Town Council.

SECTION II APPLICATION OF POLICY

General. This policy applies to the expenditure of public funds for public purchasing irrespective of the source of the funds. When purchasing involved the expenditure of federal or state assistance or contract funds, purchasing shall be conducted in accordance with any mandatory applicable federal and state law and regulations. This policy also applies to the disposal of town supplies. Nothing in this policy shall prevent the town from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement. This policy shall also provide direction that, whenever possible, the Town will direct its business to those vendors located in Londonderry.

Exceptions. Certain purchases are not readily adaptable to the open market and formal competitive selections process. Exceptions from this policy shall be considered on a case-by-case basis by the Town Manager.

Computer and Computer Related Purchases. Computer and computer-related purchases must be approved beforehand by the Information Services Division. Software programs installed on a local hard drive may interact negatively with existing programs. All employees shall receive approval from the Information Services Division before purchasing or installing any software. If during normal service/support activities unapproved software is found on a workstation the Information Services Division will remove the unapproved software and notify the department head of the policy violation. Any software modifications or installation on town file servers will be modified or

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SECTION II APPLICATION OF POLICY (Cont'd.)

installed by the Information Services Division only. If an employee desires to install personally acquired software on their assigned equipment they must obtain approval from the Information Services Division and their department head. In addition, a copy of the license agreement must be kept on file with the Information Services Division.

SECTION III PURCHASING AGENT

- A. The Director of Finance and Administration, subject to the Charter Authority of the Town Manager in purchasing, shall serve as the designated Purchasing Agent.
- B. Powers and Duties - The Purchasing Agent shall have the following powers, duties:
 - 1. To purchase materials, supplies and equipment, and the procurement of contracted services requisitioned by any agency of the Town, subject to the provisions of federal, state and local regulations;
 - 2. To maintain high standards of quality in materials, supplies, equipment and services for the lowest reasonable cost;
 - 3. To take advantage of bulk, seasonal or cooperative purchasing, where possible;
 - 4. To dispose of obsolete or unusable personal property of the Town; and
 - 5. To coordinate and assist departments and agencies of the Town in purchasing and contract matters, and otherwise observe practices in the best interests of the Town.

SECTION IV PURCHASING PROCEDURE

- A. In order to achieve the goals of this policy, the following set of procedures is established. These procedures recognize the need for convenience and flexibility in making routine and small individual purchases. This is balanced with the principles of effective budget management at the department level, and the interests of the Town in making purchases with consistently high standards of quality at reasonable prices.

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SECTION IV PURCHASING PROCEDURE (Cont'd.)

B. Exemptions - The following items shall be exempt from the purchasing procedures contained in this policy:

1. Utility bills
2. Fuel purchases (vendors shall be contacted to ensure purchases are made at lowest price possible)
3. Expense reimbursement
4. Office equipment maintenance and repairs
5. Vehicle and equipment maintenance and repairs (except major repairs exceeding \$ 2,500, which shall require a purchase order)
6. Equipment lease payments under an approved original lease agreement.
7. Identical recurring purchases such as uniform rental, cleaning services, etc. (except that the original contract must be authorized prior to any payments).
8. Service or maintenance contracts payments (except that the contract or agreement must be authorized prior to any payments).
9. Professional services (engineers, auditors, legal services)
10. Town attorney appointed by Town Council pursuant to Chapter I, Section 4.10 of the Town Charter.

C. Purchase Orders

Purchase Orders shall be requested and approved by the Purchasing Agent *prior* to placement of an order through the requisition process. Once approved, the purchase requisition will be turned into a purchase order by the Finance Department. Included with the requisition will be a bid worksheet (electronically through New World or manual if unable to access the specific account requesting funds to be drawn from.

1. Purchase orders shall be required for individual purchases of more than \$2,500.00. The distribution of copies of the approved completed purchase order is as follows:
 - a. Original copy to vendor, where necessary;
 - b. One copy for requesting department files; and
 - c. One copy for Finance Department files.
2. The following information must be included on the purchase order:
 - a. Date;
 - b. Vendor's name and address;
 - c. Quantity and description of item(s); and
 - d. Department and account to be charged.
3. The Purchasing Agent may request further information about the purchase.

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SECTION IV PURCHASING PROCEDURE (Cont'd.)

4. Approved purchase orders shall either be returned to the department placing the order, or mailed directly to the vendor, as appropriate. Direct mail purchase orders must be accompanied by vendor order forms where necessary.
5. Purchase orders that are not approved by the Purchasing Agent shall be returned to the department placing the order accompanied by a memorandum explaining why the purchase order was not approved.
6. Purchase orders over \$5,000 shall require the signature of the Town Manager.
7. Purchases under \$100,000 that were budgeted and does not require budgetary transfers shall require the approval of the Town Manager.
8. Purchases over \$25,000 that were not budgeted and require budgetary transfers, and all purchases over \$100,000 or more shall require a vote of the Council.

D. Competitive Purchasing

1. In order to represent the interests of the Town, some purchases should be made competitively, but without the more time-intensive formal bid process. The purpose of competitive purchasing is to assure the highest quality goods or services at the lowest cost. As outlined below, competitive purchasing is required only for purchases over \$2,500, but may be used for any purchase as a means of gaining the best value.
2. Verbal Quotations - Verbal quotations from at least three (3) qualified vendors are required for individual purchases from \$2,500 - \$5,000. The amount, source, date and subject of verbal quotations must be noted as proof for this level of competitive purchasing.
3. Written Quotations - Written quotations from at least three (3) qualified vendors are required for individual purchases of \$5,001 - \$10,000. Copies of written quotations must be submitted with the purchase order requisition as proof for this level of competitive purchasing.
4. Competitive Bid Selection Process should be followed for purchases over \$10,000.
5. Exceptions - Quotations may not be required if the department placing the order can demonstrate that competitive purchasing requirements have already been satisfied through other means (i.e. state contract, federal contract). The department requesting an exception on a particular purchase must file a request with the Purchasing Agent, stating the reasons for the exception. The request for an exception must be approved prior to making the purchase.

CHAPTER VI – PURCHASING POLICY (Cont'd)

SECTION IV PURCHASING PROCEDURE (Cont'd)

E. Emergency Purchasing

1. Under certain circumstances such as, but not limited to a declared emergency the interests of the Town are best served by quick action. To that end, observance of these purchasing policies may be temporarily suspended as a means of satisfying an immediate need.
2. In the event of an emergency, the Department Head shall have the authority to make such immediate purchases as deemed necessary, provided that all reasonable efforts to contact the Purchasing Agent or Town Manager have been made. Once the emergency has been resolved, the Department Head shall submit a detailed report of all emergency expenditures, the circumstances and justification for all purchases to the Purchasing Agent.

SECTION V ADVERTISED COMPETITIVE SELECTION

- A. Purchasing -** For some equipment, materials or supplies purchases, or contracting for professional or other services, advertised competitive selection of the vendor provides a greater level of choice and a better overall value for the Town. While situations and the approach demanded will vary, the following is included as a recommended outline for this process:
1. Following the development of specifications or the scope of work, as appropriate, the timetable for the competitive selection process is set-up by the Department Head and Purchasing Agent
 2. The Purchasing Agent and Department Head will review bid documents prior to advertisement.
 3. A notice is placed in the legal classified section of a newspaper of general circulation and posted in, at least two (2) public places with the following information:
 - a. A brief description of the item or service desired;
 - b. Identify a contact for questions or copies of specifications, scope of work, request for proposals (RFP) or request for qualifications (RFQ);
 - c. The mailing address for response to the notice (Town of Londonderry, Finance Department, 268B Mammoth Road, Londonderry, NH, 03053);
 - d. Other applicable information about the form in which submissions should be made (i.e. how packages are to be labeled, specific items to be included);

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SECTION V ADVERTISED COMPETITIVE SELECTION (Cont'd)

A. (Cont'd)

- e. The deadline for receipt of responses to the notice;
- f. Information about the opening of responses (i.e. date, time and place);
- g. Statement reserving the exclusive right to accept or reject any or all responses to the notice.
- h. Notices should appear in a newspaper of general circulation at least one (1) time, and be posted in at least two (2) public places not less than seven (7) days prior to the last date for receipt of responses.
- i. Notices of RFP or RFQ for professional services or other significant items or projects should be advertised at least fourteen (14) days, but usually not more than thirty (30) days prior to the last date for receipt of responses. In all cases, notice to potential vendors should be made early enough to provide reasonable opportunity to participate and prepare responsible proposals.
- j. Following the receipt of bids or proposals, a bid list containing the names and addresses of those submitting bids or proposals, and any prices or other pertinent information shall be sent to all bidders. The Purchasing Agent and the Department Head will review the bid summaries prior to the award of the bid.
- k. The Purchasing Agent may waive advertised competitive selection requirements after consultation with the Town Manager.

SECTION VI PROPERTY DISPOSITION

A. Property such as automobiles, office equipment and other items purchased by the Town are periodically removed from service and disposed of in light of obsolescence. Many of these items retain significant value and need to be disposed of to recover their value in a timely and equitable fashion once their usefulness to the Town has ended. If property is to be disposed of, the Town Manager must give prior approval to the disposal. The method of disposal will be determined by the Purchasing Agent and may include sealed bid, auction, trade in, or any other method deemed appropriate.

- 1. Sealed Bid - Notice should be placed in a newspaper of general circulation with the following information:
 - a. A brief description of the item to be sold;
 - b. Contact information for bidders with questions;
 - c. The deadline for submission of sealed bids;

CHAPTER VI – PURCHASING POLICY (Cont'd)

SECTION VI PROPERTY DISPOSITION (Cont'd.)

- d. Information regarding the opening of bids received; and
 - e. A statement reserving the right to accept or reject any or all bids.
2. Auction - In situations where a large number of items are to be disposed, an auction may be held in which prospective bidders view and make bids at a specific time and place. Notice of auction shall be posted in at least two (2) public places and advertised in a newspaper not less than seven (7) days prior to the date of the auction, which notice shall include:
- a. The time and place at which the auction will be held;
 - b. A brief description of the items offered at auction; and
 - c. Payment requirements.
- B. Payment - The Town of Londonderry will accept payment for items awarded by sealed bid or auction in the following forms:
- 1. Cash;
 - 2. Certified treasurer's or cashier's check; or
 - 3. Money order.
 - 4. Payment by personal check may be accepted. However, a minimum ten-(10) day waiting period is recommended before the bidder takes possession of any item to allow checks to clear.

SECTION VII AWARD

- A. The award of a contract or purchase, or sale of Town property, follows the competitive selection process. Consistent with the other provisions of these guidelines, the criteria for award are flexible enough to allow consideration of all factors involved, yet still provide a clear sense of public policy intent.
- B. Purchasing - After bids or proposals have been received through the competitive selection process, the bids or proposals must be reviewed for completeness. The bids or proposals must be reviewed to determine how well they meet the specifications or scope of work, the input from references, or other aspects indicating the overall ability of the prospective vendor to provide the goods or service desired.
- 1. In all cases, the goal of the award shall be to select the vendor offering the best overall value to the Town; the "lowest, best" bidder. Price, quality, service, and experience, either demonstrated through other clients or with the Town of Londonderry, should be included in the determination of award.

CHAPTER VI – PURCHASING POLICY (Cont'd)

SECTION VII AWARD (cont'd.)

2. Proper – Disposition - Bids for property being sold by the Town should be awarded to the bidder making the highest responsible bid. In making this determination, bidders may be requested to supply proof of their ability to meet their bid before the final award is made.

SECTION VIII SPECIFICATIONS

- A. Specifications for any purchases under the advertised competitive selection process must be reviewed with the Purchasing Agent prior to the purchasing process. Specifications must adequately define the operating characteristics, performance requirements, or scope of work to be performed. They should not be so specific as to unnecessarily restrict competition, but complete enough to represent superior value for the Town.
- B. Any specifications maintained by individual departments or agencies for particular items or services should be reviewed periodically and revised if necessary. All specifications for products or services should be placed on file with the Purchasing Agent.

SECTION IX INTERGOVERNMENTAL RELATIONS

The Town may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any supplies, services or constructions with one or more government entities.

SECTION X ETHICS IN PUBLIC PURCHASING

- A. **General – Public employment is a public trust. Town employees must discharge their duties impartially so as to assure fair competitive access to Town purchasing by responsible contractors. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of a Town employee's duties is a breach of public trust. Any effort to influence any Town employee to breach the standards of ethical conduct is also a breach of ethical standards.**

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SECTION X ETHICS IN PUBLIC PURCHASING (Cont'd.)

B. Conflict of Interest - It is a breach of ethical standards for any employee to participate directly or indirectly in any purchase activity when the employee knows that:

1. The employee or any member of the employee's immediate family has a financial interest pertaining to the purchase; or
2. A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the purchase; or
3. Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the purchase.
4. Upon discovery of an actual or potential conflict of interest, an employee shall notify their department head and withdraw from further participation in the transaction involved.

C. Specific Actions Prohibited:

1. **Gratuities.** It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision influencing the content of any specification, procurement standard or contract award. Prohibited actions include:
2. **Kickbacks.** It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor to the prime contractor or any person associated therewith, as an inducement for the award of a subcontract or order.
3. **Contingent Fees.** It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a town purchase award upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
4. **Contemporary Employment.** Except as may otherwise be permitted by town Ordinance it shall be a breach of ethical standards for any employee who is participating directly or indirectly in the purchasing process to become or be, while such an employee, the employee of any person or business contracting with the town.

CHAPTER VI – PURCHASING POLICY (Cont'd)

SECTION X ETHICS IN PUBLIC PURCHASING (Cont'd.)

5. Misuse of Confidential Information. It shall be a breach of ethical standards for any employee or former employee knowingly to use information of a confidential nature for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.
- D. Supplemental Remedies. In addition to existing remedies which may be promulgated in the town administrative code or other official policy, an employee who knowingly breaches ethical standards during a public purchasing transaction may be subject to any one or more of the following (in accordance with relevant provisions of any applicable collective bargaining agreement):
1. oral or written warnings or reprimands;
 2. suspension with or without pay for specified periods of time; and
 3. termination of employment.

~~End of Chapter~~