

## **PURCHASING POLICY:**

### **SECTION I : PURPOSE:**

These policies, known collectively as the purchasing policies of the Town of Windham, are adopted for the purpose of providing the best guarantees that tax money and public funds are spent in the most prudent fashion, as well as assuring the goods and services required by the departments of the Town are acquired in a timely manner and at the most economical price. This policy explicitly details the levels of authority granted to various governmental officials of the Town of Windham as well as providing for direction as to the steps involved in the procurement of goods and services for the Town.

### **SECTION II : DEFINITION:**

- A) "Purchasing System" means the process 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. Any reference to a Department Head is also meant to include a Committee Chairperson.
- B) "Purchases" means all goods or services paid for via the Town's Accounts Payable system, regardless of whether the source funding for the purchase is the Town's general operating budget, grant/donated funds or special revenue/revolving account funds.
- C) "Assistant Town Administrator" throughout this policy is meant to refer to the Assistant Town Administrator or designee.
- D) "Sole Source Vendor" is intended to describe a situation in which a particular item or service is so specialized it is only available from one or two vendors, or limited by the manufacturer to one local distributor, or for any other reason the Town is unable to obtain three price quotes or bids (refer to Section X).
- E) "Single Vendor" is meant to pertain to multi-department purchasing, in which the Town selects one vendor to provide specialized services (such as an Electrician).
- F) "Local Business/Vendor" means businesses/vendors located in the Town of Windham or its abutting communities.

### **SECTION III : AUTHORITY:**

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

### **SECTION IV : CONFLICT OF INTEREST:**

In accordance with RSA 95:1, no person holding a public office in the Town of Windham, either appointed or elected, shall, by contract or otherwise, except by open competitive bidding, buy real estate, sell or buy goods or services, commodities, or other personal property of a value in excess of \$200 at any one sale to or from the Town of Windham.

The above section shall also apply to all employees of the Town of Windham.

**SECTION V : OBJECTIVES:**

- A) To provide, wherever appropriate, for the centralized function of purchasing as established in these policies.
- B) To seek competitive quotations based on the dollar limits outlined in these policies.
- C) To, wherever possible, consider the use of State contracts for goods and services, as such contracts may provide savings to the Town.
- D) To provide for a procedure for the disposal of surplus property as outlined in these policies.
- E) To consider the purchase of goods and services from local businesses, as well as encourage their participation in the procurement process.

**SECTION VI : PURCHASE ORDERS:**

All purchases in excess of \$5,000 shall require a purchase order signed by the Department Head and any other individual or groups as required by these policies. A purchase order shall not be required in cases where a bid award letter or signed contract is issued in accordance with Section IX(A) or (B) of this policy.

- A) All purchases that are of a contractual nature or related to ongoing operational expenditures shall be assigned an annual blanket purchase order number. Vendors that fall under a blanket purchase order number shall use the specific number(s) on their invoices. The following ongoing obligations and/or purchases, if not awarded through a competitive bid process, shall require an initial purchase order executed as referenced below:
  - 1. VEHICLE FUEL & HEATING OIL/PROPANE: Initial delivery after start of contract year, (all subsequent orders shall reference the initial [blanket] order).
  - 2. CONTRACTS: Contracts for consulting or maintenance services, solid waste disposal services and lease/rental agreements shall require an initial purchase order at the beginning of the contract period, covering the period of performance.
  - 3. OTHER: Ongoing product purchases expected to accumulate above the thresholds determined in Section VII.
- B) All non-contractual or non-reoccurring operational purchases shall require a purchase order number and the appropriate authorizing signatures in accordance with Section VII.
- C) The following obligations and/or purchases shall be exempt from purchase order requirements:
  - 1. UTILITIES: Including electricity and telephone expenses.
  - 2. SERVICE/MAINTENANCE AGREEMENTS: Including ongoing equipment and software service agreements which have previously been approved

through the budgeting process (with a list of such agreements maintained by the Finance Department); and ongoing contracted employee agreements such as snowplowing (subject to an approved list at the beginning of each season maintained by the Highway Department).

3. HUMAN SERVICES/EMPLOYEE REIMBURSEMENTS: Including payments made on behalf of employees as part of their job description/training; and human service contributions/ payments.
- D) If there are purchases for which it is not clear whether a purchase order is required, the Department Head shall consult with the Town Administrator for a final determination.
- E) Prior to issuing a purchase order for a new vendor, Department Heads shall contact the Assistant Town Administrator to determine if the appropriate tax identification forms and insurance certificates (for vendors working on town property) are on file.
- F) DISTRIBUTION: One copy of the purchase order shall be given to the vendor if requested, one to Administration (prior to, or attached to, the invoice being submitted for payment processing), and one maintained in the department files.
- G) SCOPE OF INFORMATION: The purchase order should, at a minimum, contain the following information, as applicable:
1. The quantity and description of product or service being purchased.
  2. Vendor's name and location.
  3. The unit costs.
  4. Any extra charges such as freight, insurance, etc.
  5. Total amount of purchase and related budget amount (blanket P.O.'s).
  6. Place and expected time of delivery.
  7. Date the order is prepared.
  8. Purchase order number.
  9. Budget account which to charge the purchase.

Departments should use the standardized purchase order numbering system which begins with the department's budgetary organization number-last two digits of the current fiscal year-the numerical order of purchase orders issued by that department (e.g. 11002-13-01 representing Administration's first purchase order issued during fiscal year 2013).

#### **SECTION VII : PURCHASE LEVELS:**

- A) PURCHASES UP TO \$5,000: The Department Head shall have full authority to make departmental purchases of goods or services up to \$5,000 which are identified within the department's annual budget. Although not required, the provisions of this section do not preclude a Department Head from soliciting multiple price quotes in order to ensure the best value for the Town.
- B) PURCHASES BETWEEN \$5,001 AND \$10,000: In accordance with the provisions of this section, the Town Administrator shall have full authority to approve departmental purchases of goods or services up to \$10,000 for those items which are identified in the Town's budget.

- ❖ For such purchases, the Department Head shall contact as many vendors as necessary in order to obtain at least three (3) written quotations. In the event less than three (3) quotations are available, evidence of the attempt to obtain them should be attached to the documentation (this is generally referred to as a “no-bid response”). In addition, Department Heads are strongly encouraged to solicit a quote from at least one Local Business/Vendor. The Department Head shall present these quotations to the Town Administrator, along with a recommendation for their approval, and once approved, prepare a purchase order to be signed by the Town Administrator.

- C) PURCHASES ABOVE \$10,000: Purchases having an estimated cost in excess of \$10,000 shall be bid pursuant to the competitive procurement guidelines established in these policies under Section IX-A or IX-B.
- D) MULTIPLE UNIT PURCHASES UNDER ONE PURCHASE ORDER: For situations where multiple units of the same equipment or item are to be acquired, it is expected that a purchase order be used if the total cost of the combined units is in excess of \$5,000. In no instance may the requirement of a purchase order be avoided by making multiple individual purchases in succession.

NOTE: The above thresholds do not including shipping/freight costs and are calculated based on annual cost, in the case of a multi-year contract.

#### **SECTION VIII: MULTI-DEPARTMENT/YEAR PURCHASING**

- A) For purchases of goods and supplies, which cross several departments, every effort should be made to use one vendor and purchase in bulk, in order to take advantage of discounts that may be offered. For specialized office supplies such as business cards and letterhead, a standardized format should be used across all departments.
- B) The Town will attempt to establish multi-year contracts for contracted vendor services often utilized by multiple departments on an annual basis. While some services may not fall under the requirements of competitive procurement under Section IX, every effort should be made to obtain fixed pricing for a minimum three-year period, utilizing a single, pre-qualified vendor in each specialty to perform work at all town buildings. Contracts will be proposed for a three-year period, with a performance clause enabling the Town to end the contract early if unsatisfied with the vendor’s service. The intent of this arrangement is to secure the most competitive pricing, establish enhanced vendor relations, facilitate the annual budgetary process and enhance efficiencies through a consistently applied bid award process. The maintenance services shall be coordinated through the Highway/Maintenance Supervisor or designee.

#### **SECTION IX : TYPES OF COMPETITIVE PROCUREMENT:**

As part of the competitive procurement process, when feasible, the Town will give preference to a Local Business/Vendor who bids, in an effort to support the business community in and around Windham. This will be one consideration among the other criteria discussed in (C) below, however, the intent is to provide additional weighting, for service-based competitive procurement, in order to recognize the benefits of having local services available, in addition to the criteria of price and quality of service.

- A) REQUEST FOR PROPOSALS: Certain professional services, such as architectural and engineering, auditing, and legal services are more appropriately solicited through a Request for Proposals (RFP). This is due to the need to consider factors other than price, such as professional qualifications, previous experience in related projects, and review of support staffs backgrounds.

When soliciting for RFP's the specifications must contain the following information: scope of services to be performed; timing; evaluation criteria; minimum qualifications of professional experience; and price.

The Town shall solicit proposals from at least three (3) vendors providing the professional service. The criteria for determining the RFP award among responsible bid submissions are addressed in Section (C) below.

B) THE COMPETITIVE BID PROCESS:

1. For bids solicited on an annual or ongoing basis, the Administrative office will maintain a contractors / bidder list, according to type of good or service provided, based on those who have previously bid or requested to be on such a list. The bidder list will be maintained as a courtesy to send specific specifications to particular interested vendors, and to encourage the receipt of multiple bids. In addition, a public notice of bid solicitation shall be issued, unless waived under provisions of this policy.
2. The Administrative office shall maintain contract files in accordance with the State of NH's record retention rules and Town Record Retention policy. Each file shall contain the following, minimum information for the retention period, as appropriate:
  - a) Bid specifications, public notice of bid solicitation and other relevant pre-solicitation documents;
  - b) Records of recommendations, justifications, and approvals;
  - c) Lists of those vendors/individuals sent the bid specifications as applicable;
  - d) Copy of each offer or quotations and any records or documentation. Any unsuccessful offers will be maintained in the contract file;
  - e) Record of any required approvals;
  - f) Notice of bid award;
  - g) The original of the signed contract or bid award letter, all contract modifications, and other change orders or amendments;
  - h) Bid, performance, or other bond documents, or a reference thereto.
3. BID SPECIFICATIONS: The Department Head shall prepare specifications or a scope of work for bid items/services, and shall submit the draft specifications/scope of work to the Assistant Town Administrator for approval prior to solicitation of bids. As a part of the specifications, the

Department Head should always include the following minimum items or requirements:

- a) Requirement that bidders clearly identify the product or service on which they are bidding on all envelopes.
- b) Requirement that bid submissions must be sealed, received timely, and that facsimile bids will not be accepted.
- c) The bid documents shall note that the Town is a Tax Exempt Organization.
- d) The terms of the contract, including effective dates, extension terms, termination clauses, and other applicable terminology as well as a contact person at the Town to address questions regarding the scope of work and project specifications.
- e) A statement as to the availability of separate construction or engineering plans, as applicable, and any cost or deposit associated with such plans.
- f) The payment terms as determined by the Town.
- g) Where applicable, performance bonds will be required and shall always be required, as specified by RSA 447:16, for highway and building construction projects with a value greater than \$35,000.
- h) A statement which reserves the Town's right to reject any and all bids, negotiate any contracts and waive any informalities in the bid process.
- i) A statement which reserves the Town's right to consider substitution of equivalent items and under what conditions. The specifications shall include a statement which requires the bidder to submit documentation for all substitutions and exceptions.
- j) Where applicable, the Town may hold a bidders conference to acquaint the bidders with the process, and to address any special concerns, questions or request for exceptions that may arise.
- k) Minimum quantity and quality requirements. These requirements should be specific enough to ensure the desired level of quality, but also must be flexible enough to elicit multiple bids (i.e. bid specifications should generally not include specific brand names).
- l) Specifications shall include where and when bids will be opened and by whom, as well as how bids will be evaluated and awarded.
- m) Specifications shall include a requirement that preliminary certificates of insurance, for liability and workers' compensation, be submitted with the bid showing evidence of coverage, the adequacy of which shall be subject to approval by the Selectmen.

- n) The following non-collusion clause shall be part of every bid specification package. A bidder must sign this statement in order for the bid to be valid.

“The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this section the word “person” means any natural person, joint venture, partnership, corporation or other business or legal entity.”

\_\_\_\_\_

(Name of person signing bid)

\_\_\_\_\_

(Date)

\_\_\_\_\_

(Company)

- 4. PUBLIC NOTICE: The Assistant Town Administrator shall invite all bids by advertisement on the Town website and in at least one (1) newspaper of general circulation in the Town of Windham, such publication to be at least fourteen (14) days before the time of the bid opening. All bid notices must remain posted in at least two public places, one of which must be at the Town Hall or Administrative Offices, for a period of not less than two weeks (14 days).

The Invitation to Bid (Bid Notice) shall include the following information:

- a) time and date by which bids must be delivered
- b) address to which the bid is to be delivered
- c) date by which the Town intends to award the bid and contract with the vendor
- d) a general description of the good or service being purchased
- e) where and when Bid Specifications may be obtained
- f) where and when bids will be opened, and by whom
- g) reserve the Town’s right to reject any and all bids.

- 5. AVAILABILITY OF SPECIFICATIONS: The Assistant Town Administrator shall mail copies of the specifications to those firms/vendors as listed in the bid files as well as additional firms who may request a copy. The Town reserves the right to charge for copies according to size and complexity (ie. construction drawings, etc.) or to refer vendors to the official Town website, where all bid specifications are posted.

6. SAMPLE BID PUBLIC NOTICE: “The Town of Windham, New Hampshire is currently accepting bids for the (name of bid item). Bid specifications are available from the Administrative Office, 4 North Lowell Road, Windham, New Hampshire, 03087, (603) 432-7732 or on the Town’s official website at [www.windhamnewhampshire.com](http://www.windhamnewhampshire.com). Sealed bids will be received until 2:00 PM, October 23, xxxx. Bids will be publicly opened and read at that time, and awarded in accordance with the Town’s Purchasing Policy. The Town of Windham reserves the right to reject any and all bids if deemed in the best interest of the Town.”
7. ACCEPTANCE OF BIDS: The Assistant Town Administrator or designee shall accept all bids up to the time specified for receipt of bids in the Public Notice. All bids will be dated and time stamped by the Administrative Office and/or logged onto a bid receipt log. Only bids submitted by vendors will be included on the bid log; the Town does not maintain a log of all vendors that pickup bid specification packages, unless a fee is involved for construction plans. Any late bids will be initially rejected, however, the bidder may appeal to the Board of Selectmen to waive this provision. A bidder may correct, modify, or withdraw a bid by written notice received in the Administrative Office before the time and date set for the bid opening.
  - a) Bids must be submitted in accordance with the bid solicitation. If a bidder chooses to use its own bid form or a letter to submit a bid, the bid will be considered only if the bidder explicitly, in written form, accepts all the terms and conditions of the invitation and further that the award of the bid would result in a binding contract under the terms and conditions of the solicitations and other terms and conditions contained in the submitted bid which do not conflict with those in the solicitation.
8. BID OPENING: All bids will be opened by the Assistant Town Administrator at the time and date specified in the Public Notice. The names and quotes for all bidders shall be listed in bid file and made available for public inspection. The Assistant Town Administrator may authorize a designee to open the bids. The Assistant Town Administrator shall notify all bidders of any changes in the opening time and/or date.
9. BID CORRECTIONS: After the bid opening, the bidder may not amend, correct, modify, or change in any fashion a bid which would be contradictory to the interests of the Town of Windham or fair competition. The Town Administrator may waive minor informalities, or allow the bidder to make corrections, as long as the intent of the bid is not disturbed.
10. BID AWARD: Bids meeting the specifications shall be reviewed by the Department Head in consultation with the Town Administrator and others as needed. A list of all bids received, as well as a recommendation, shall be made to the Board of Selectmen for approval and recorded in the Selectmen’s minutes. The criteria for determining the bid award among responsible bid submissions are addressed in Section (C) below.

The Assistant Town Administrator shall award the contract to the successful bidder, in accordance with the vote of the Board of Selectmen,

and be responsible for preparing Notice of Bid Awards and submitting same to the successful bidder as well as all other bidders.

11. CONTRACTOR QUALIFICATIONS: To be determined responsible, a prospective contractor must:

- a) have adequate financial resources to perform the contract, or the ability to obtain them by the date of bid opening;
- b) be able to comply with the required or proposed delivery or performance schedules;
- c) have a satisfactory performance record;
- d) have a proven record of integrity and business ethics;
- e) have the necessary organization, experience, technical skills, and support staff, or the ability to obtain them;
- f) have the necessary production, construction, and repair equipment and parts required to fulfill the contract requirements.
- g) provide at least two references and phone numbers, if requested.

**C) RFP AND BID EVALUATION CRITERIA:**

Among responsible bidders that have satisfied the minimum requirements of the bid specification/RFP, selection should be made considering the following: price, qualifications and service capabilities based on interview, proposal review and/or reference checks/site visits as applicable, and local vendor consideration. Preference should be given to a Local Business/Vendor if price is equal and qualifications are similar. The selection criteria shall be addressed by the Department Head or Town Administrator when presenting the recommendation for bid award to the Board of Selectmen.

**SECTION X : MISCELLANEOUS PROVISIONS:**

- A) SOLE SOURCE PROPOSALS: The Town of Windham will not entertain the solicitation of a single source vendor for supplies and/or services unless the competitive bid requirements are explicitly waived by vote of the Board of Selectmen under Section XIII of this policy. Absent such vote, the Town will consider a vendor if they are the only bidder, provided that the procedural steps in soliciting bids has been followed and documented by the Town's soliciting authority.
- B) STATE/OTHER BIDS: If the budgeted item/service to be purchased has been included in a bulk contract awarded through a competitive bid process conducted by the State of New Hampshire or other similar purchasing consortiums that may be available, and municipalities are eligible to participate in this contract, and if under \$10,000, the item/service may be exempt from Section VII B of this policy, if approved by the Town Administrator. If the item/service is greater than \$10,000, Department Heads shall present this request to the Board of Selectmen for approval and waiver of the bid process under Section XII of this policy.

- C) CHANGE ORDERS: Whenever a change of a monetary kind occurs on the original purchase order, a new order with the updated information must be submitted by the Department Head, modifying the purchase order. The modified order will be re-routed for approval with the notation "Modifying or Changing Purchase Order No. \_\_\_\_\_".
- D) EMERGENCY PURCHASES: An emergency purchase may be made by a Department Head only if the normal operations of the department are in jeopardy. This shall generally mean or relate to emergency repairs to equipment or facilities which must be kept operating to protect the health and/or safety of persons, or property. A purchase order shall be prepared and marked as EMERGENCY. The order shall then be given to the individual authorized to approve the request in accordance with the limits outlined in Section VII.

For purposes of this paragraph only, the competitive procurement provisions of these policies may only be waived by the Chairman of the Board of Selectmen or his/her designee. This waiver shall only be considered when there exists a special emergency involving the health and safety of the people or their property.

#### **SECTION XI : CREDIT CARD PURCHASES:**

The Town has issued individual credit cards, under a Town master credit card account, to specified employees of the Town for purpose of facilitating departmental purchases. These credit cards are administered under the provisions of the Town's separate "Credit Card Policy; WIN 5:00:18:10". No personal purchases shall be made on Town credit cards, even if the intent is to reimburse the Town. No department shall request a "store" credit card account under the Town of Windham unless previously authorized by the Town Administrator. No additional bank credit lines or accounts will be established without authorization by the Board of Selectmen. This section does not pertain to vendor accounts established for the purpose of "buying on account" with an invoice subsequently sent to the Town for payment. These accounts are established on an as needed basis through the Finance Department.

#### **SECTION XII : EMPLOYEE REIMBURSEMENTS:**

Employee reimbursements must be approved by the Department Head and include all supporting documentation, including copies of receipts for cash purchases or a copy/image of the check if a personal check is used. Every effort should be made to avoid using personal funds for Town purchases if a Town credit card or purchase order can be utilized instead. All employee reimbursements shall be submitted with a standard request for check form and appropriate supporting documentation to ensure compliance with Town policies, Collective Bargaining Agreements and/or Internal Revenue Service requirements. The Assistant Town Administrator is responsible for reviewing documentation to ensure Internal Revenue Service requirements are met and to assess the payroll tax impact of any reimbursement or fringe benefit arrangement. If a Department Head is seeking reimbursement, it is their responsibility to obtain approval from the Town Administrator or designee. No employee shall authorize their own reimbursement.

#### **SECTION XIII : WAIVERS:**

The Board of Selectmen may vote to waive any portion of this policy if the Board deems it to be in the best interest of the Town of Windham.

**SECTION XIV : DISPOSAL OF SURPLUS PROPERTY:**

Any property which is considered to be surplus and valued at \$100-\$1,000 must be presented to the Town Administrator by the Department Head with a recommended method of disposition for approval. If property is valued over \$1,000, a request to dispose and recommended method of disposition must be presented to the Board of Selectmen for approval. Various possible disposition means are the sealed bid or auction process, State surplus auction, trade in usage, retained for usage as parts, or transfer to another Town Department. Any surplus items with a value of less than \$100 may be disposed of by the Department Head as they deem appropriate. The Town will make an effort to offer such items initially, through local advertisement, to Windham civic and charitable organizations.

If the means of disposition is either the sealed bid or auction, the Town Administrator shall be responsible for publishing the necessary public notices to comply as closely as possible with the intent as set forth in Section IX-B-4.

**SECTION XV : AMENDMENTS:**

These policies may from time to time be amended by the vote of the Board of Selectmen at a regularly scheduled Selectmen's Meeting. Notice of proposed changes shall be posted in at least two (2) public places, one of which must be the Town Hall, at least 14 days from the date of the meeting.

**SECTION XVI : EFFECTIVE DATE:**

These policies shall be effective upon a vote of the Board of Selectmen and shall replace any and all bid procedures or policies previously enacted by the Town.

**Adopted by the Board of Selectmen - September 29, 1992**

**Amended by the Board of Selectmen - July 5, 1994**

**Edward J. Milan**  
**Frederic H. Noyles**  
**Elizabeth A. Dunn**  
**Charles E. McMahon**  
**Patrick W. Wallace**  
Board of Selectmen

**Re-codified and affirmed by the Board of Selectmen - May 11, 1998**

**Charles E. McMahon**  
**Douglass L. Barker**  
**Carolyn B. Webber**  
**Margaret M. Crisler**  
**Galen A. Stearns**  
Board of Selectmen

**Amended by the Board of Selectmen - November 9, 1998**

**Amended by the Board of Selectmen - June 2, 2003**

**Amended by the Board of Selectmen - April 20, 2009**

**Amended By Board of Selectmen – Date: June 25, 2012**

**Amended By Board of Selectmen – Date: July 29, 2013**

**Phil LoChiatto  
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Board of Selectmen**