

Procurement of Goods and Services – Town of Guilford

Amended 27 February, 2023

PURPOSE

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

AFFIRMATIVE ACTION AND LOCAL PREFERENCE

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

CODE OF CONDUCT

Employees, officers and agents of the Town who are involved in the procurement and selection of bids and purchases shall make reasonable efforts to avoid real, apparent, or potential conflicts of interest. No employee, officer or agent of the Town shall participate in selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or personal interest in the firm/vendor selected for award.

An employee, officer or agent of the Town who is involved in the procurement and selection of a bid or purchase and who has a real or apparent conflict of interest must disclose that conflict of interest within the context of a duly warned Selectboard meeting that occurs before the bid selection or purchase takes place. Such disclosure must be documented in the minutes for that meeting which shall be retained as part of the official record surrounding the bid or purchase.

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

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

DOCUMENTATION

Records documenting the procurement process for any Minor or Major purchase, as those terms are defined below, shall be maintained for a period of at least three years from the date of the submission to the Federal government of the final expenditure report if the purchase or project was funded with federal grants, or until the completion of any litigation, claim, negotiation, audit, or other action involving the records, whichever is longer. Otherwise, records shall be maintained by the Town in accordance with the retention and disposition schedules as set by the Vermont State Archivist.

PURCHASING AUTHORITY

Purchasing Agents

The following employees are designated to act as Purchasing Agents for the Town: Town Administrator, Road Crew Foreman, and the Town Clerk.

Purchasing Agents are responsible for ensuring that the best possible price and quality are obtained with each purchase and Purchasing Agents shall review all proposed procurements to avoid unnecessary or duplicative purchases of equipment, supplies and services.

Purchasing Agents shall also ensure that competition is not restricted with limits on the geographic location of vendors, with unreasonable requirements or qualifications placed on vendors, or by allowing vendors to be selected who have engaged in noncompetitive pricing practices.

Incidental and Minor Purchases

Employees who have been designated to act as Purchasing Agents may make incidental purchases of up to \$2,500.00, without prior approval, provided those purchases are limited to the amount of the budget authorized by the Town, and provided that such purchases are included on the finance warrant for approval at a Selectboard meeting following the purchase.

Employees who have been designated to act as Purchasing Agents may make major purchases with a value between \$2,500.00 and \$15,000.00 with prior approval of the Selectboard. Such purchases are limited to the amount of the budget authorized by the Town unless the Selectboard agrees on a source of funds to cover the amount in excess of the budgeted amount. Although not required, competitive quotes from at least two vendors should be obtained whenever possible. Such purchasing choices shall be based on cost, quality of goods and services, and the best interests of the Town of Guilford. Purchasing Agents are authorized to sign contracts with and authorize services from vendors providing services to the Town that are covered by the budget approved by the Town voters. Examples include but are not limited to: cleaning services, animal control officer, HVAC system service vendor, BCTV, legal counsel, and others related to regular provisions and services to the Town of Guilford.

Regular Highway Department purchases totaling \$10,000 or less shall be exempt from the competitive bid process

Major Purchases

All purchases over \$15,000.00 require prior approval of the Selectboard, and a determination as to the source of funds to cover the expenditures prior to the purchase. The Selectboard shall review all proposed procurements to avoid unnecessary or duplicative purchases of equipment, supplies and services. The Selectboard shall also ensure that competition is not restricted with limits on the geographic location of vendors, with unreasonable requirements or qualifications placed on vendors or bidders, or by allowing vendors to be selected who have engaged in noncompetitive pricing practices.

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

For all major purchases with a value above \$15,000.00, price and rate quotations shall be obtained from at least two qualified vendors to ensure that the Town has received a fair and reasonable price, unless the Selectboard approves selection of a Sole Source Vendor (see below). Vendors will be selected based on cost, the quality of the goods and services offered, and the ability, capacity, and skill of the vendor demonstrated under prior contracts with the Town. As an alternative to issuing Requests for Proposals the Town may use the competitive procurement price solicitation process provided by the Sourcewell Cooperative Purchasing Program.

Large purchases with a value of up to \$250,000.00, or more, must follow a sealed bid process as outlined below.

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

SEALED BID PROCESS

The sealed bid process shall be initiated by the issuance of a Request for Bids / Proposals prepared by the Selectboard or its designee. Notice of the Request shall be made by letters to known providers soliciting bid responses, advertisements posted in three public locations within the Town, on the Town's website www.guilfordvt.gov, advertisement(s) placed in a newspaper of general circulation in the region and, as appropriate, on other social media sites such as Front Porch Forum and VLCT's website.

BID SPECIFICATIONS. A list of bid specifications shall be prepared for each purchase over \$15,000.00 and shall be available for inspection at the Town office. Bid specifications shall include:

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

Once a Request for Bids has been issued, the bid specifications will be available for inspection at the Town office.

BID SUBMISSION

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

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

BID OPENING

Every bid received prior to the bid submission deadline will be opened at or soon after the submission deadline and evaluated by the Selectboard or its designee. The bid opening will include the name and address of bidder; for lump sum contracts, the lump sum base bid and

the bid for each alternate; for unit price contracts, the unit price for each item and the total, if stated; and the nature and the amount of security furnished with the bid if required. The evaluation will be presented to the Selectboard with recommendation(s) for action.

CRITERIA FOR BID SELECTION

In evaluating bids, the Selectboard will consider the following criteria:

- Price.
- Bidder's ability to perform within the specified time limits.
- Bidder's experience and reputation, including past performance for the Town.
- Quality of the materials and services specified in the bid.
- Bidder's ability to meet other terms and conditions, including insurance and bond requirements.
- Bidder's financial responsibility.
- Bidder's availability to provide future service, maintenance, and support.
- Nature and size of bidder.
- Contract provisions that are acceptable to the Town.
- For construction projects over \$2,000, contractor's indication of acceptance of wages in the current wage determination provided as part of the Request for Bids.
- Any other factors that the Selectboard determines are relevant and appropriate in connection with a given project or service.

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

- There shall be no preference exercised for local contractors or suppliers.
- Minority and women-owned businesses must be included in the solicitation list for the request for proposal.

The Selectboard will not select a bidder who is listed on the Excluded Parties List System website (<https://www.sam.gov>).

CHANGE ORDERS

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

EXCEPTIONS

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

Competitive Proposals

If time does not permit the use of sealed bids, or the award will be made on the basis of non-price related factors, a competitive proposal process shall be initiated by the issuance of a Request for Bids (RFB) or Request for Qualifications (RFQ) prepared by the Selectboard or its designee that includes the factors that will be used to evaluate and compare the proposals. Bids or qualifications shall be obtained from an adequate

number of qualified sources (at least two vendors) to ensure that the Town has received a fair and reasonable price and all notification and record keeping requirements of the sealed bid process shall be followed. If architectural or engineering services are being solicited, this process should be used with the most qualified firm or individual awarded the bid and price or fees negotiated after the award. If competitive proposals are used, all of the above steps in the sealed bid process should be followed except that: 1) the bid submission need not be sealed; and 2) price will not be the primary factor in the proposal selection.

Sole Source Purchases

If the Selectboard determines that there is only one reasonable source for a proposed purchase, it may waive the bid process and authorize the purchase from the sole source. If only one bid is received for a proposed purchase, the Selectboard may waive the bid process and accept or negotiate the proposal based on availability, quality and cost of the goods or services, and the ability, capacity and skill of the vendor demonstrated under prior contracts with the Town.

The Selectboard may approve Sole Source Vendors annually at the first regular meeting of the Selectboard held in the Town of Guilford's fiscal year, and shall take into account general availability, quality and cost of the goods or services, and the ability, capacity and skill of the vendor demonstrated under prior contracts with the Town. Sole Source Vendors may be re-evaluated throughout the fiscal year if circumstances dictate.

Emergency Purchases

The Selectboard, Town Administrator, Road Crew Foreman, and/or the Emergency Management Director may award contracts and make purchases for the purpose of meeting the public emergency without complying with the bid process. Emergency expenditures may include immediate repair or maintenance of town property, vehicles, or equipment if the delay in such repair or maintenance would endanger persons or property or result in substantial impairment of the delivery of important Town services.

Professional Services

The bid process shall not apply to the selection of providers for services that are characterized by a high degree of professional judgment and discretion including legal, financial, auditing, risk management, and insurance service.

Federally funded non-competitive purchases for \$250,000 or more require a cost analysis to determine the reasonableness of the proposed pricing and should be completed in accordance with the requirements of the federal or state agency issuing the grant funding.

The foregoing Policy is hereby adopted by the Selectboard of the Town of Guilford, Vermont, this 23rd day of January, 2023 and is effective as of this date until amended or repealed.

SIGNATURES



Zon Eastes, Selectboard Chair

Selectboard members:



Michael Becker



Knute "Rusty" Marine (Feb 28, 2023 09:33 EST)

Knute ("Rusty") Marine



Verandah Porche



Richard Wizansky (Feb 28, 2023 09:04 EST)

Richard Wizansky











Procurement of Good and Services Policy 2.27.23

Final Audit Report

2023-02-28

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