



## TOWN OF SANDWICH

8 MAPLE STREET ~ PO BOX 194  
SANDWICH, NEW HAMPSHIRE 03227

### PROCUREMENT POLICY

#### I. PURPOSE:

Taxpayers have a right to expect that the Town's operations be carried out efficiently and expeditiously with adequate financial control, transparency, and accountability. Toward that goal, the Town seeks to provide open opportunities for vendors to submit their best bid to provide the goods and services that are used by the Town if they can provide products and/ or services at a competitive price for the value.

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

The Town of Sandwich seeks goods and services representing the best value for the Town consistent with the goals below. The purpose of this policy is to set out the Town's process for obtaining goods and services. Goals include:

- Exercising financial control over purchases;
- Clearly defining authority for the purchasing function;
- Assuring quality of goods and services purchased;
- Allowing fair and equal opportunities to all qualified suppliers; and
- Providing for public confidence in the policies followed in public purchasing.

Some of the factors the Town will consider in determining "best value" are:

- Price of goods/services in proportion to the life of the product/project
- Lifecycle costs (to include ongoing maintenance as well as disposal/disposition of obsolete items when applicable)
- Quality
- Warranty
- Availability of product/service
- Past Performance with the Town of Sandwich or other New Hampshire jurisdictions.
- References

#### II. OBJECTIVES

- To provide, wherever appropriate, for the centralized function of purchasing as established in these policies.
- To seek competitive quotations based on the dollar limits outlined in these policies.
- To, wherever possible, consider the use of State vetted contracts for goods and services, as such contracts may provide savings to the Town.

#### III. DEFINITIONS

- **Competitive Bidding:** The documented process of achieving the lowest bid or the bid most advantageous (representing best value) to the town for the goods and services desired by the town, whether through formal or informal bidding procedures.
- **Direct Purchase:** The direct purchase by a Department Head from a vendor of supplies or services needed in small quantities for day-to-day operations.
- **Emergency Purchase:** A purchase where immediate action is required as the result of an unforeseen circumstance that requires an immediate response to prevent financial, operational, public health, safety or property damage.
- **Formal Bid:** A written quotation obtained from a vendor with delivery to the town at a specific date and time, to a specific place/person.
- **Informal Bids:** Quotations, written and oral, received from a vendor by means other than a formal Request for Proposal (RFP) or Request for Qualifications (RFQ) process.
- **Purchase Amount:** The total cost of goods or services including all determinable associated costs, e.g. construction, recurring maintenance, engineering, delivery, setup and training. Where the purchase consists of small frequent charges, the aggregate twelve-month cost of goods or services shall be used to determine the amount of a purchase and the applicability of specific sections of the Purchasing Policy.
- **Purchase Type:**
  - **Major Purchases:** Any single purchase of goods or services in the amount of \$10,000 or more.
  - **Non-major Purchases:** Any purchase of goods or services less than \$10,000.
  - **Sole Source Purchase:** A single vendor source that possesses a unique product or performance capability that justifies not using a competitive bid process for procurement of goods or services. Use of a Sole Source selection process must be validated through either an Informal or Formal RFP/RFQ process to demonstrate no other viable bidders are identified.
- **PCARDS:** Town-issued procurement cards (credit cards) used for the purchase of materials or equipment or payment of invoices submitted to a department where the vendor accepts credit cards as a form of payment. Use is limited to goods or services less than \$1,000 unless otherwise approved by the Board of Selectmen.
- **Specifications:** The qualitative standards set by department heads as a guide to the Town Administrator and Board of Selectmen as a measure of quality and quantity that successful vendors must achieve to be considered for award. Specifications shall not restrict purchases as to trade name or eliminate bids being submitted on items that have the same specifications but not as to a specific trade name.

#### IV. AUTHORITY

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

Except as explicitly delegated by the Board of Selectmen, only the Board of Selectmen may initiate bids for services and/or contract for services with a successful bidder. The Board of Selectmen

shall have the final authority to approve or reject any bid and/or to determine whether a sole source contract is appropriate given the facts.

## **V. ETHICS IN PUBLIC PURCHASING AND CONTRACTING**

All Town employees with authority to participate in bidding, purchasing or contracting decisions shall strictly avoid conflicts of interest and self-dealing. The following examples are some but not all circumstances in which an employee would violate this provision.

- A. It shall be unethical and a violation of Town policy for any Town employee involved in making procurement decisions to have personal investments in any business entity bidding to provide goods or services to avoid conflicts of interest between their private interests and their duty to the public.
- B. It shall be unethical for any Town of Sandwich employee to solicit, demand, accept, or agree to accept from any vendor or business, a gift or gratuity or commitment of future business relationship in any amount in connection with any decision, approval, disapproval, or recommendation concerning a solicitation.
- C. Inexpensive or items of insignificant value such as advertising items bearing the name of a vendor, pens, pencils, paper weights, cups, candy, calendars, are not considered articles of value or gifts in relations to this policy. For further information, refer to the Town's Gift Acceptance Policy. A copy of the Gift Acceptance Policy can be found at the Selectmen's Office or in the Town of Sandwich Personnel Policies Handbook.
- D. Employees shall not use their position or status as a Town employee to promote their own business interests or to otherwise engage in self-dealing.

If you have a question as to whether a conflict of interest or ethical conflict may be present in any solicitation or transaction, the potential conflict must be disclosed to the Town Administrator and the Board of Selectmen. The Board of Selectmen will be the final determiners as to whether a Conflict of Interest is present.

**VI. ADMINISTRATIVE REGULATIONS:** Under no circumstances may any Town employee, Town committee member or Town board member use a Town of Sandwich account membership, account vendor number, or any other method of making a purchase for personal use under the name of the Town of Sandwich. Reimbursement arrangements are not allowed under this policy.

## **VII. COMPETITIVE PROCUREMENTS: THE COMPETITIVE BID PROCESS**

**PUBLIC NOTICE:** The Town Administrator shall invite all competitive bids by advertisement on the Town website and if required by statute, in at least one (1) newspaper of general circulation in Carroll County, NH. Except in emergent situations bid notices will be posted in two additional public places, one of which must be at the Town Office building, for a period of not less than two weeks (14 days).

**REQUEST FOR PROPOSALS (RFP):** When the Town determines that a competitive bid process is appropriate, an RFP will be developed. The RFP will be posted, at minimum, on the Town Website and two (2) public posting locations. The RFP will include the scope of the project; any specifications, the submission deadlines, the date bids will be opened, the selection criteria and the terms and conditions the Town will require in its final contract. The Town may include other terms in the RFP.

It is important that during the Bid process, all interactions (both formal and informal) with any bidder, must include the Town Administrator. The Town Administrator will document any relevant information that should be conveyed to all bidders in order to ensure a fair and equitable acquisition.

For all projects over \$10,000, the Town will strive to solicit proposals from at least three (3) vendors capable of providing the product or service. This minimum may be waived by the Town when there are fewer than three vendors available for that product or service, or when the Town in its sole discretion determines that the circumstances warrant waiver.

**INSTRUCTIONS TO BIDDERS:** Every effort should be made when creating the initial bidding instructions and specifications to avoid prospective bidder questions. After release of the RFP and prior to the submission due date, any modifications, corrections, or clarifications, whether at the prompting of the Town or relevant Department Head or as a result of an inquiry by a potential bidder, will be provided in writing to all known bidders as well as posted both electronically and in public posting locations. Where appropriate, bid meetings may be held to afford all potential bidders the opportunity to tour a project location and ask questions.

All solicitations shall note that all purchases are subject to the conditions set forth in the Town Procurement Policy.

- A. **ACCEPTANCE OF BIDS:** The Town Administrator shall accept all bids up to the time specified for receipt of bids in the Public Notice. All bids will be date stamped by the Selectmen's Office. Any late bids will be rejected and will not be opened and evaluated. Key criteria for bid acceptance are:
- B. **BID FORMAT:** 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 solicitation. To be responsive a bid must include all requested terms and provide all information requested in the RFP.
- C. **BID SPECIFICATIONS:** As a part of the specifications, RFPs should always include the following minimum items where applicable and practicable:
  - a. The terms of the contract including effective dates, extension terms, and termination clauses. A Sample Contract may be provided with the RFP or required as part of the bidders' submission.

- b. In accordance with RSA 447 the Town Administrator shall require security from vendors for construction or public works projects estimated to be in excess of \$125,000. No contract will be approved until proof of security is obtained.
- c. A statement which reserves the Town's right to consider substitution of equivalent items and under what conditions.
- d. 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.
- e. The following non-collusion clause shall be part of every bid specification package. A bidder must sign this statement for the bid to be valid: *"The undersigned certifies under penalties of perjury that this bid is in all respects bonafide, 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.*

**D. BIDDER QUALIFICATIONS:** Bidder qualification criteria shall be specified in the appropriate bid request but should address:

- a. Adequate financial resources to perform the obligations of the contract;
- b. Ability to meet delivery or performance schedules;
- c. Satisfactory performance record;
- d. Proven record of integrity and business ethics;
- e. Possess the necessary organization, experience, technical skills, and support staff;
- f. Have the necessary production, construction, and repair equipment and parts required to fulfill the contract requirements;
- g. Providing at least two references and phone numbers;
- h. Fulfilling all the requirements of the bidding process and specifications.

**E. BID OPENING:** All bids will be opened by the Town Administrator and/or their designee and at least one other Town Official at the time and date specified in the Public Notice. The names and quotes of all bidders shall be listed at the time of opening and made available for public inspection. The Town Administrator shall notify all bidders of any changes in the opening time and/or date.

**F. 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 Sandwich or would impair fair and equitable competition. The Selectmen may waive minor informalities, or allow the bidder to make corrections, as long as the intent of the bid is not disturbed.

**G. BID AWARD:** All responsive bids shall be considered based upon the criteria set forth in the RFP. Bidders shall bid to specifications and any exceptions must be noted. Following that assessment, the bids will be evaluated for best value as determined by

the bid specifications. The Selectmen shall award the contract to the successful bidder. The Town Administrator shall be responsible for providing notice of award to the selected bidder as well as notification to all other bidders. 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.

The Board of Selectmen reserves the right to reject all bids and issue a new Request for Proposals if less than three bids are received. The Board of Selectmen also reserves the right at their 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 judgment will best serve the Town's interest. The Town reserves the right to investigate the financial stability of any and all bidders to determine the ability of the bidder to assure service throughout the term of the contract.

- H. **CONTRACT FOR SERVICES:** Upon bid award, the chosen contractor must agree to the Town's Contract-For-Services, which will include the terms required by the Town including, but not limited to, insurance requirements; indemnification; and bond specifications where required. Copies of the RFP and the Bid will be included as exhibits to the Contract. No work shall begin until proof of insurance, and of bonding if applicable, is received and approved by the Town.
- I. **RE-BIDDING:** Upon approval by the Board of Selectmen, the Town Administrator is authorized to solicit the re-bid for any or all items that have been noticed for bidding where less than three bids have been received, notwithstanding solicitations seeking the same, or where no bid most advantageous to the town has been received.

**REQUEST FOR QUALIFICATIONS ("RFQ"):** The Town may maintain a list of qualified contractors/vendors determined through the RFQ or other process determined by the Town and made available to interested parties. Vendors/Contractors on this list may receive bid solicitations in addition to any vendor who responds to the posted Request for Proposals.

## **VIII. EXCEPTIONS TO BID PROCESS**

1. **Sole Source Purchase:** If the Board of Selectmen determines that there is only one possible source for a proposed purchase, they may waive the bid process and authorize the purchase from the Sole Source. The Sole Source justification must be documented and retained.
2. **Blanket Purchase:** If a proposed purchase is not a major purchase, but is anticipated to exceed \$10,000 during any fiscal year, the bid process shall be initiated and shall specify the recurring nature of the purchase. Once a bid has been accepted, all future purchases shall be made from that bidder without necessity of additional bids, until such time as the Board of Selectmen vote to initiate a new bid process. Blanket Purchase agreements should be evaluated at least every 3 years to ensure the Town is receiving the best value for the goods or services.

3. Emergency Expenditures: In case of an emergency, the Board of Selectmen may award contracts and make purchases for the purpose of meeting an emergency without complying with the bid process. In such cases, the Town Administrator or Department Head shall promptly file with the Board of Selectmen a report that certifies the emergency nature of the incident and itemizes the purchase and costs. Emergency expenditures may include immediate repair or maintenance of town property, vehicles or equipment. However, even in emergencies, an attempt shall be made to get at least three (3) quotes by telephone or electronically.
4. Professional Services/Consultants: 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, but not limited to, legal services; auditing services; medical, health or social services for Town employees; engineering and/or architecture; and risk management and/or insurance services. Such services may be appropriate for an RFQ process.
5. Minor and recurring purchases/expenses such as: Utility purchases, Advertising, Postage, Federal, state and local taxes, or maintenance contracts with manufacturers of equipment purchased.
6. Sensitive or restricted purchases/expenses such as: Court judgments, Financing or borrowing, or Police special investigative costs where disclosure may jeopardize investigation.
7. Non-Profit Organizations: 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.
8. Government Agencies: Where the Town decides to contract with government agencies for the provision of governmental services.
9. Re-Award of contract: Sealed, publicly invited competitive bids will not be required for purchases in any situation where a contractor or supplier has defaulted upon his or her obligations to the Town under the contract and there is a security guaranteeing to the Town the performance of said obligation at no additional cost to the Town. In such cases, the Board of Selectmen may negotiate and award the contract to another qualified contractor or vendor provided that said renegotiations and award do not exceed the amount of the security.
10. Right to Waive: The Board of Selectmen, on recommendation from the Town Administrator or a Department Head, may waive any of the above requirements in cases where it is deemed inadvisable to solicit bids because of, for example, the need of standardization of such materials, supplies, equipment or services, or for any other reasons which the Board of Selectmen deem to be in the best interest of the Town.

11. Standardized Government Bid List: Any major item purchase may be made without a local bid process when the service or product is available from an approved bid list awarded by the State of New Hampshire, County Federal, School District or any other entity connected with a government agency.

**IX. RECORDS RETENTION:** The Town Administrator shall maintain contract and bid history files in accordance with the State of NH's record retention rules.

**X. NON-MAJOR PURCHASE PROCEDURE:** Department Heads shall have authority to purchase goods and services for a value of up to \$10,000 if otherwise included in their budget. These purchases shall be made in a manner concurrent with the intent of this policy. If the purchase or service exceeds \$10,000 the Department Head must receive Board of Selectmen approval in advance of the purchase.

If the purchase will be of a recurring nature and is a budgeted purchase item (on-going repairs or maintenance for example), the Department Head can procure goods and services previously approved as part of the Town budget process, in increments of up to \$10,000 per occurrence, up to their allocated budget.

#### **XI. NON-BID PURCHASES USING PROCUREMENT CARD (PCARD)**

1. PCards may be used for non-major purchases or payment of invoices submitted to a department where the vendor accepts credit cards as a form of payment.
2. All purchases made with the PCard must have a detailed receipt. Department Heads are required to authorize the receipt with their signature and account designation. Receipts must be turned in to the Town Administrator in a timely manner.
3. Department Heads shall have the authority to purchase goods and services for items listed as an approved item within the Town's budget. If the item is not otherwise included in the budget the Department Head must receive Board of Selectmen approval in advance of purchase.
4. Use of PCards for personal purchases or expenses regardless of the intention of reimbursing the Town is prohibited and may result in loss of use of the credit card and/or disciplinary action.
5. Use of PCards for meals is limited to travel while on official Town business or for official programs/events as part of a department budget. Meal receipts must include item detail.
6. All purchases made with PCards shall be paid for in a timely manner so that no interest charges or penalties accrue. Interest or penalties may become the responsibility of the card holder if recurring charges occur.
7. Any incentive program benefits or rebates derived by the use of Town PCards will be the property of the Town and will be deposited into the General Fund.



8. All cardholders should take all measures to ensure the security of the PCard and the card number. Cardholders shall not give their card information to others to use on their behalf.
9. Lack or loss of proper documentation or authorizations may result in loss of PCard privileges.
10. Misuse of a Town PCard by an employee may result in loss of the credit card and/or disciplinary action.

## XII. QUESTIONS AND/OR CLARIFICATIONS RELATED TO THIS POLICY

All questions and/or clarifications of this policy and its related content should be addressed to the Board of Selectmen, who shall be responsible for the administration, revision, interpretation, and application of this policy.

To facilitate conduct in accordance with this policy, the Town Administrator will ensure a copy of this policy is made available to all Town officials, Department Heads, employees, volunteers, board and commissioned (whether employed by the town or volunteers), upon their hiring, appointment, or election to office and at such other times as should be necessary.

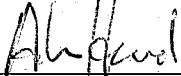
This policy should be reviewed annually to ensure it is still relevant and appropriate to the needs of the town and should receive a revision update at least every 3 years.

### Approved by the Board of Selectmen:

Date: February 27, 2024

  
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Joanne D. Haight, Chairman

  
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Caroline H. Nesbitt

  
\_\_\_\_\_  
Adam E. Heard  
Board of Selectmen

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Date Adopted: February 12, 2024

This Policy received, reviewed, revised and updated on \_\_\_\_\_