

MEMO

Date: June 9, 2021

To: Matthew Sturgis, Town Manager

From: John Quartararo, Finance Director



Re: Purchasing Policy

CC: Debra Lane, Town Clerk

At the May 5, 2021 workshop, the Council reviewed the first update of the Town's Purchasing Policy since its approval in 2011. The Council raised a number of concerns and sent the draft policy forward for further review on June 7, 2021. On June 7 the Council, meeting in workshop, reviewed the draft changes and set Council approval of purchases at \$100,000.

The Council agreed to the document with that final adjusted and to sending the policy forward for adoption.

I am requesting approval of the Purchasing Policy be added to the Council's agenda for June 14, 2021.

Attached to this memo is the final Policy.

Suggested Council order language is:

Ordered that the Purchasing Policy is approved.

**Town of Cape Elizabeth
Purchasing Procedure
Draft June 14, 2021**

The purpose of establishing a formalized purchasing procedure for the Town of Cape Elizabeth is twofold. The primary objective is to ensure that the goods and services purchased by the Town are of the quality needed by the individual departments and are secured at the lowest possible price. A second objective is to purchase goods and services in such a way that it will be clear to everyone that all qualified vendors have an equal opportunity to do business with the Town.

It is important to have a purchasing procedure which provides sufficient flexibility to allow Department Heads to make individual small purchases and purchases of an emergency nature. The procedure outlined below shall be followed except in bona fide emergencies. In cases when a Department Head deviates from the established procedure, he or she shall provide a written notice to the Town Manager's Office stating why the established procedure was not followed.

I. General Provisions

- A. Department Heads are authorized to make purchases not to exceed \$1,499.99 in accordance with the procedure outlined in Section II and without prior approval of the Town Manager's Office.
- B. Prior approval from the Town Manager's Office shall be obtained for all purchases from \$1,500.00 in value to \$9,999.99 in value in accordance with the procedure outlined in Section III.
- C. All purchases and contracts in excess of \$9,999.99 shall require use of the procedure outlined in Section IV.
- D. No contract or purchase shall be subdivided to avoid the provisions of this policy.
- E. At the beginning of each budget year, the Department Heads shall supply the Town Manager a list of estimated annual requirements of frequently used supplies, thereby fostering group purchasing.
- F. Purchasing for similar items such as office supplies, books, parts, library magazine subscriptions, cleaning supplies, etc. may be done through obtaining a single year-long bid providing for a predetermined discount from a catalogue or list price. Purchasing for such items may also be accomplished by taking advantage of the discount provided to the Maine Division of Purchases or through other statewide cooperative purchasing agreements or through utilizing school department bulk prices.

- G. The Town makes use of credit cards for online purchasing and for reducing the number of checks needing to be written. The use of a Town credit card is a privilege that can be revoked by the Town Manager if abused.
- a. No municipal credit card may be used for any personal purchases.
 - b. All credit card invoices shall be paid only with documented backup showing that items on the credit card invoice have been received.
 - c. This backup material is for every item on the credit card invoice including all meal and accommodation receipts.
 - d. In all instances, it must be clear what item is being purchased with any listing on a credit card invoice.
 - e. Credit cards may not be used for the purchase of services so as to ensure that proper tax reporting may occur.
 - f. Abuse of credit card privileges is subject to disciplinary proceedings and the loss of credit card usage privileges.
- H. Whenever possible, purchases of technology hardware and software shall be coordinated through the Cape Elizabeth School Department thus taking advantage of their bulk purchase prices.
- I. Fuel purchases, such as heating oil, propane, gasoline and diesel fuel, shall be coordinated through a group bid or through a bid price for the year. When obtaining a bid price for the year, at least three vendors shall submit a bid on the date that the unit price is fixed.
- J. Health insurance coverage shall be placed out for bid at least once every five years and as often as every three years.
- K. The Town's routine engineering services shall be placed out for competitive review at least once every five years and as often as every three years.
- L. The Town's audit services and legal services shall be placed out for competitive review as determined by the Town Council.
- M. The Town's worker's compensation, property, accident and liability coverages are provided as membership programs through the Maine Municipal Association's related risk services programs. These programs shall be reviewed by professional external parties at least once every five years to ensure that continued membership in these programs is in the best interest of the Town.
- N. The Town has sufficient ability to purchase services and goods on tax-exempt basis therefore casual purchases by employees, board and committee members should be limited. Reimbursements for casual purchases up to \$25.00 may include the sales tax paid. Sales taxes for purchases over \$25.00 may be reimbursed for the sales tax on \$25.00 of the purchase. For purposes of this

section, a purchase is an individual sales receipt and is not cumulative over multiple sales receipts.

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II. Purchases of \$500.00 and under \$1,500.00

A. Purchase under \$500.00 may be authorized by a Department Head without a purchase order or other procedures.

B. Field Purchase Order

The Department Head shall prepare a field purchase order for any purchase greater than- \$499.99 and less than \$1,500.00. The following information shall be included on field purchase orders:

1. Date prepared
2. Vendor name and address
3. Purchase order number
4. Account to be charged to
5. Description
6. Unit measurement
7. Quantity to be purchased
8. Amount of the purchase
9. Signature of receiving party
10. Signature of Department Head
11. Evidence of an attempt to acquire additional estimates or a statement of why no attempt was made to acquire additional estimates.

C. The department may give one copy to the vendor, if the vendor requests or requires, attach one copy to the invoice when submitted for payment, and shall keep one for departmental records.

D. The department is responsible for inspecting and testing of all merchandise, purchases or services provided.

III. Purchasing Procedure for \$1,500.00 and under \$9,999.99

A. The Department Head shall follow the same procedure as in Section II except that they shall e-mail the Town Manager for approval to purchase the item. All such e-mail requests shall contain information on at least three bids, quotes or proposals received. The Town Manager may standardize the form and content of approval requests.

B. The Town Manager shall review the request and notify the Department Head of approval to purchase the item(s). The Department Head may subsequently order

the item, and when the invoice is received, shall attach the manager's initialed approval or approval email.

IV. Bid Procedure for Purchases over \$9,999.99

- A. Department Heads shall inform the Town Manager of necessary purchases exceeding \$9,999.99 in value, up to two months before the merchandise or service is needed.
- B. Department Heads shall inform the Town Manager the quantity needed and prepare any draft specifications necessary.
- C. The Town shall issue invitations to bid to all known qualified vendors in the Greater Portland area and outside the area when it is in the best interest of the Town.
- D. The Town Manager may publish invitations to bid in general circulation newspapers in the Greater Portland area or in a trade publication when it is in the best interest of the Town.
- E. All sealed bids shall be submitted to the Town Manager's Office by a specified date and time and shall be clearly identified as bids on the envelope. Each sealed bid shall include the statement "**Sealed bid for XXXX, to be received by (Date) (Time). Not to be opened until (Date) (Time)**". Bids received without this statement on the envelope shall be deemed nonresponsive and shall not be opened nor considered.
- F. Bids shall be opened in public at the date, time and place specified in the invitation. The Town Manager or his designated representative will conduct the bid opening. A second Town employee shall maintain a record of attendees and tabulate the results. The Town Manager or designee shall announce the apparent low bidder, subject to verification of the bid proposal.
- G. A tabulation of all bids and the bids themselves shall be available for public inspection. Depending upon the needs of the Town, public inspection may be set by appointment. Requests for copies of proposals may be made upon payment of the costs of copying. Materials deemed confidential by the bidder may not be copied and circulated to the public.
- H. The Town Manager shall accept the lowest responsible bid meeting specifications or may reject all bids. After consultation with the Department Head, in determining the lowest responsible bid meeting specifications, the Town Manager shall consider the following:
 - 1. Adherence and responsiveness to the bid specifications;

2. The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
3. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
4. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
5. The quality of performance of previous contracts or services;
6. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
7. The quality, availability and adaptability of the supplies, or contractual services to the particular use required;
8. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
9. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
10. The number and scope of conditions attached to the bid;
11. The life cycle and scope of conditions attached to the bid;
12. In the event of a tie bid, quality and service being equal, the contract shall be awarded to a local vendor or if there is not a single local vendor, then a tie shall be resolved by drawing lots in public; and
13. The Town reserves the right to reject or accept any or all bids and to waive any informality when it is deemed in the best interest of the Town to do so.

V. Exempt from Purchase Order Procedure

The following items do not need purchase order paperwork for each invoice.

- A. Utility bills and fuel bills
- B. Expense reimbursement
- C. Office equipment maintenance and repairs
- D. Outside equipment maintenance except major repairs valued at \$1,000 or more

- E. Equipment operating lease payments if the original operating lease is approved
- F. Invoices for identical reoccurring purchases such as uniform rental, cleaning service, alarms service etc. These items shall be bid at least every three years.
- G. Service contract payments except for authorization of actual contracts.

VI. Joint Bidding Process

The Town shall participate in the Greater Portland Council of Governments joint services program whenever it is deemed in the best interest of the Town to do so. This determination of participation shall be made jointly by the Department Head and the Town Manager. The Town may also participate with other communities and entities in joint bids.

VII. Excess Town Equipment, Vehicles and Real Property

- A. Excess equipment, vehicles or real property may be sold through a sealed bid process. Municipal and school department employees may participate as a bidder on the same basis as the public. Any employee submitting a bid is barred from participating in the opening of and/or tabulation of the bids and the decision to award the bid. The term participating does not prevent the bidding employee from attending a public opening of the bids received.
- B. No Town equipment, vehicles or real property may be sold without the authorization of the Town Manager unless the decision is reserved to the Town Council, in which case the Town Manager will make a recommendation to the Town Council.
- C. Any equipment, vehicle or real property with a bid value in excess of \$1,000 may be sold only upon authorization of the Town Council.
- D. Vehicle and equipment trade-ins are exempt from this procedure

VIII. Purchases Over \$100,000

- A. Any purchase or service contract in excess of **\$100,000** shall be approved by the Town Council.
- B. The request to the Town Council for approval should include the following:
 - 1. Statement of the budget appropriation and available balance.
 - 2. Copy of the solicitation for the request for proposals (RFP) and where and when the solicitation was publicized.
 - 3. Bid opening attendees.

4. Bid tabulation.
5. Department Head's recommendation and justification for award.
6. If the lowest bid is not accepted, a statement as to why that bid is not the lowest responsible bid.
7. The Department Head or Town Manager may provide other information to assist the Town Council in their approval.

IX. Construction Contracts

- A. Any contract for the construction, major alteration or repair of any municipal facility involving a total cost in excess of \$25,000, except contracts for professional, architectural, landscape architectural and engineering services, shall be awarded by competitive bids. Plans and specifications shall be prepared for all contracts over \$25,000.
- B. The review criteria for award of bids is outlined in Sec. IV of this policy.
- C. The Town Manager may utilize a list of pre-qualified bidders.
- D. On projects with an estimated professional service cost of over \$15,000 for the design of buildings, site plans, or other engineering projects, the Town Manager shall select, without prejudice and on an equal basis, a prime professional who may be an architect, landscape architect or an engineer.
- E. The professional so retained for a project shall perform only those services for which he or she is competent and shall utilize the services of other qualified professionals as required to provide a proper and complete professional service to the Town.
- F. In the selection of professionals, the Town Manager shall obtain at least three proposals for all work anticipated to cost in excess of \$15,000. The Town Manager may publish invitations in a general circulation newspaper in Greater Portland when he or she deems that it is in the best interest of the Town to do so.
- G. The review criteria for proposals are as outlined in Sec. IV of this policy.

X. Authority to obligate contracts

- A. The Town Manager shall be the sole Town employee authorized to obligate the Town to:
 1. A contract for the purchase of goods or services or
 2. A grant contract between the Town and a grantor agency, except as provide in subsection B below

B. Grant contracts may be signed by Department Heads if:

1. The grantor agency requires a Department Head signature,
2. The Town Manager has reviewed and approved the grant contract beforehand, and

C. Grants must be presented to and accepted by the Town Council

History:

Approved:	8/8/2011
Draft Amended and approved	6/14/2021
Review date:	6/14/2026