

PURCHASING POLICY TOWN OF WATERBURY

Section 1: Title, Authority, and Purpose

This policy shall be known as the "Town of Waterbury Purchasing Policy." It has been adopted by the Town of Waterbury Select Board pursuant to 24 VSA § 872.

The purpose of this Purchasing Policy is to obtain the highest quality goods and services for the Town of Waterbury 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 increased public confidence in the procedures followed in public purchasing. This policy is compliant with the provisions of Title 2, Part 200.318 through Part 200.326 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Grant Guidance").

Section 2: 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.

Section 3: 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 and shall follow the Town of Waterbury Conflict of Interest Policy. 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 Select Board 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 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.

Section 4: Authority of Municipal Manager as Purchasing Agent

The Municipal Manager or his/her designee (in the event of his/her absence) shall be the purchasing agent for the Town of Waterbury as authorized by 24 VSA § 1236(3). The authority to purchase for the Town of Waterbury includes, but is not limited to the purchases of supplies, materials, equipment, services and other items which allow for the normal operation of the town government and its departments provided that appropriations for such purchases have been included in the budget. During periods of the fiscal year when a budget has not been approved, the Municipal Manager shall have authority to spend for purchases as established in the budget for the previous year, unless otherwise directed by the legislative body. The Municipal Manager 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.

Section 5: Purchasing Guidelines for Non-Federally Funded Purchases

General Guidance. The Municipal Manager shall review all proposed procurements to avoid unnecessary or duplicative purchases of equipment, supplies and services. The Municipal Manager 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.

Incidental Purchases. The Municipal Manager may choose to delegate purchasing authority up to \$1,200 to department heads or other employees to facilitate the day to day operations of the town and its departments. Purchases by department heads or other authorized employees, of single items or items in the aggregate ordered at the same time from the same vendor that cost more than \$1,200 must be approved in writing by the Municipal Manager.

Budgeted Purchases. The Municipal Manager is authorized to approve budgeted purchases with a value over \$1,200. Competitive quotes from at least two vendors should be obtained whenever possible.

Unbudgeted Purchases. All unbudgeted purchases up to \$10,000 require approval by the Municipal Manager. Unbudgeted purchases over \$10,000 require approval by the Select Board. Competitive quotes from at least two vendors should be obtained whenever possible.

Section 6: Purchasing Guidelines for Federally Funded Purchases

For all federally funded purchases, the Town will follow the provisions of Title 2, Part 200.318 through Part 200.326 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Grant Guidance"). This includes procurement methods as well as contract requirements. Amounts for the purchasing thresholds (micro-purchase and simplified acquisition thresholds) are found in the FAR (Federal Acquisition Regulation) at:

<https://www.acquisition.gov/browse/index/far>

These amounts may be adjusted annually and should be reviewed periodically.

If federal funding is used for purchases under the micro purchase threshold, competitive solicitations are not necessary provided the Town finds that the pricing is reasonable and such purchases are equitably distributed among qualified suppliers.

If federal funding is used for purchases between the micro purchase threshold and the simplified acquisition threshold, 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.

The minimum contract size or threshold for construction projects funded by federal awards is a separate threshold of \$2,000. Any federally funded construction projects exceeding that amount must follow Davis Bacon rules and must follow the sealed bid process outlined below.

Purchases at or exceeding the simplified acquisition threshold 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 prepared by the Municipal Manager or designee. Notice of the Request for Bids shall be made by letters to known providers soliciting bid responses, advertisements posted in three public locations within the Town, and advertisements placed in a newspaper of general circulation in the region.

Bid Specifications. A list of bid specifications shall be prepared for each purchase over the simplified acquisition threshold (or less at the discretion of the Select Board) and shall be available for inspection at the Town office. Bid specifications shall include:

1. Bid name.
2. Bid submission deadline.
3. Date, location, and time of bid opening.
4. Specifications for the project or services including quantity, design, and performance features.
5. Bond and/or insurance requirements.
6. A copy of the proposed contract.
7. Any special requirements unique to the project or purchase.
8. Delivery or completion date.
9. 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.
10. 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 <https://wdolhome.sam.gov>) and must comply with the Davis Bacon Act.
11. Language that reserves for the Select Board 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 Select Board 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 Select Board, 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 shall not be considered and shall 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 publicly opened and read aloud by the Select Board or 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.

Criteria for Bid Selection. In evaluating bids, the Select Board will consider the following criteria:

1. Price.
2. Bidder's ability to perform within the specified time limits.
3. Bidder's experience and reputation, including past performance for the Town.
4. Quality of the materials and services specified in the bid.
5. Bidder's ability to meet other terms and conditions, including insurance and bond requirements.
6. Bidder's financial responsibility.
7. Bidder's availability to provide future service, maintenance, and support.
8. Nature and size of bidder.
9. Contract provisions that are acceptable to the Town.
10. 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.
11. Any other factors that the Select Board 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:

1. There shall be no preference exercised for local contractors or suppliers.
2. Minority and women-owned businesses must be included in the solicitation list for the request for proposal.
3. The Select Board 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 Select Board 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:

1. **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 Select Board 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.
2. **Sole Source Purchases.** If the Select Board or its designee determines that there is only one possible source for a proposed purchase, it may waive the bid process and authorize the purchase from the sole source.
3. **Recurring Purchases.** If the total value of a recurring purchase of a good or service is anticipated to exceed \$25,000 during any fiscal year, the bid process shall be utilized 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 Select Board votes to initiate a new bid process.

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 architect, engineering, legal, financial, auditing, risk management, and insurance services with a value of up to the simplified acquisition threshold.

Federally funded non-competitive purchases at or exceeding the simplified acquisition threshold 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.

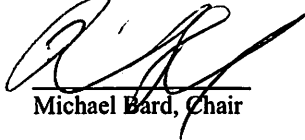
Section 7: Authority to Execute the Budget

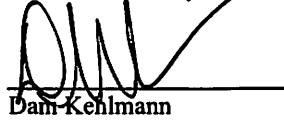
The Municipal Manager shall execute the budget and do so in a manner that best reflects the intention of the legislative body and the voters. It is understood that the budget of each Fund is a spending plan for the year and that it is likely that overspending or under spending will occur in one or more of the line items of the budget and the manager shall have the authority to approve purchases even if the purchase causes the particular line item to be overspent. If the cost of a necessary item is significantly higher than the cost anticipated in the budget or if, due to unforeseen circumstances, it becomes necessary for the municipal manager to consider a purchase that is not included in the budget, the manager shall seek and receive permission for such expenditure from the legislative body prior to making the purchase.

Section 8: Emergency Spending

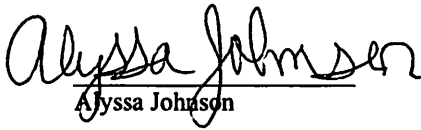
In an emergency when the general safety and welfare of the public is endangered or if the buildings or infrastructure of the town is imperiled, the Municipal Manager is authorized to make emergency expenditures in excess of the budget which are prudent and necessary to protect public safety and or the property of the town. As soon as practicable, the manager shall inform the legislative body of the actions taken and shall make an accounting of such spending.

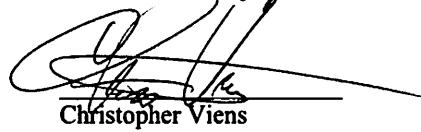
The foregoing Policy is hereby adopted by the Select Board of the Town of Waterbury this 19th day of December, 2022 and shall be effective January 1, 2023 until amended or repealed.


Michael Bard, Chair


Dan Kehlmann


Roger Clapp


Alyssa Johnson


Christopher Viens