

## **TOWN OF BOLTON PROCUREMENT POLICY**

**I. PURPOSE.** The purpose of this policy is to establish the process for procuring goods and services by or on behalf of the Town of Bolton, in a manner that efficiently and effectively:

- obtains quality goods and services at reasonable cost,
- maintains financial control over the procurement process,
- offers fair and equal opportunity to qualified suppliers, and
- ensures public accountability and confidence in the procurement process.

**II. APPLICATION.** This policy shall apply to all purchases of goods and services by or on behalf of the Town of Bolton, except where conditions of state or federal funding, or a particular grant, gift or bequest mandate otherwise. For federally-funded projects, federal procurement standards under 2 C.F.R. pt. 200 as most recently amended shall apply (see attached).

### **III. PROCUREMENT AUTHORITY**

**Purchasing Agents.** Purchases of goods or services by or on behalf of the Town of Bolton shall be made only by purchasing agents authorized by the Select Board. The following employees and municipal representatives are designated to act as purchasing agents for the town:

- Town Clerk
- Assistant Town Clerk
- Highway Foreman, Town Highway Department
- Highway Superintendent, Highway Department
- Fire Chief, Fire Department
- Other municipal officials or representatives, as authorized by majority vote of the Bolton Select Board.

A designated purchasing agent is responsible for obtaining the best possible price and quality for each good and service procured for the town, in accordance with this policy. All proposed procurements shall be reviewed to avoid unnecessary or duplicative purchases of equipment, supplies and services. Competition shall not be restricted by limiting the geographic location of vendors, by placing unreasonable requirements or qualifications on vendors (e.g., unnecessary experience or bonding, or by specifying brand name products), or by selecting vendors who have engaged in noncompetitive pricing practices.

**Incidental Purchases.** Purchases of \$1,000 or less may be made without prior Select Board approval, and without a formal bid or competitive solicitation process, provided that such purchases are within the line item amount budgeted by the town. Any amount over that budgeted shall require prior approval of the Select Board. Incidental purchases shall be made based on the relative cost and quality of the good or service to be provided.

**Minor (Regular) Purchases.** Purchases valued between \$1,000 and \$5,000 may be made only with prior approval of the Select Board, as authorized by the Chair of the Select Board, provided that such purchases are within the line item amount budgeted by the town. Any amount over that budgeted shall require prior approval by majority vote of the Select Board. Competitive quotes from at least two and preferably three vendors should be obtained whenever possible to ensure that the town has received a fair and reasonable price, unless a sole source vendor has been previously approved by the Select Board for a particular good or service. Vendors will be selected based on cost, the quality of goods and services offered, the demonstrated ability, capacity, and skill of the vendor, a vendor's reputation and past performance, and the ability of the vendor to provide ongoing servicing, maintenance or technical support as needed. At the discretion of the Select Board, a competitive or sealed bidding process specified for major purchases may be used for regular, minor purchases.

**Major Purchases.** All purchases over \$5,000, including the purchase of capital assets identified in the town's adopted capital budget and program, must be authorized by majority vote of the Select Board, acting as the purchasing agent, following either the sealed bid process or under allowed exceptions to this process, as outlined below.

**Federally Funded Purchases.** If federal funding is used for purchases between \$3,000 (\$2,000 in the case of construction projects subject to Davis Bacon requirements) and \$150,000, price or rate quotes must be obtained from three or more qualified sources following the affirmative action provision of this policy and all provisions regarding fair and unrestricted competition. Large purchases with a value over \$150,000 and construction projects of any value that are funded with federal dollars must follow the sealed bid process outlined below.

**IV. 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. 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. The town may not exercise a preference for local businesses for purchases funded in whole or in part with federal funding.

**V. 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 any one of the following has a financial or personal interest in the firm or vendor selected for award:

- 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.

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 of the town will not solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Officers, employees and agents who fail to follow the above code of conduct may be sanctioned or disciplined, to the extent permitted by law, for violations of the above standards.

**VI. DOCUMENTATION.** Records documenting the procurement process for any minor or major purchases, as defined above, including the reason for the specific procurement method chosen, the basis for the award and contract pricing (showing evidence that the process was fair and equitable), as well as any other significant decisions that were part of the procurement process, shall be maintained by the town in accordance with the retention and disposition schedules set by the Vermont State Archivist. For federally-funded projects, procurement documentation 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, or until the completion of any litigation, claim, negotiation, audit, or other action involving the records, whichever is longer.

**VII. SEALED BID PROCESS.** The sealed bid process shall be initiated by the issuance of an Invitation for Bids (IFB) or Request for Proposals (RFP) prepared by the Select Board or its designee. Notice of the IFB or RFP shall be made by letters to known providers soliciting bid responses, advertisements posted in three public locations within the town and on the town website, and advertisements placed in a newspaper of general circulation in the region. A prequalified list of firms or vendors may be used for bid solicitations only if 1) the list is current, 2) it includes enough qualified sources to ensure a competitive process, and 3) bidders are allowed to qualify during the solicitation period.

**Bid Specifications.** A list of bid specifications shall be prepared for each purchase over \$5,000 and shall be available for inspection at the Bolton 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, goods or services requested including related quantity, design, tasks or performance criteria.
5. Bond and/or insurance requirements.
6. A copy of the proposed contract, as applicable.
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 federally funded 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.
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 responsibility of any bidder to determine his or her ability to assure service throughout the term of the contract.

Once a request has been issued, bid specifications and supporting documents will be available for inspection at the Bolton Town Office during regular office hours.

**Bid Submission.** All bids must be submitted in sealed envelopes, addressed to the Town of Bolton 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 sealed bid received prior to the submission deadline will be publicly opened and read aloud by the Select Board. 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.

**Bid Selection Criteria.** 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 qualifications, 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. Any other factors that the Select Board determines are relevant and appropriate in connection with a given project or service.

**Federal Bid Selection Criteria.** In addition to the above, in the case of a contract supported by federal funds, the additional criteria shall apply:

11. 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.
12. There shall be no preference exercised for local contractors or suppliers.
13. 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 IFB or RFP 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.

**VIII. 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 Solicitation Process.** 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 Proposals (RFP) 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 proposals. Proposals or qualifications shall be obtained from an adequate number of qualified sources (at least two but preferably three 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, engineering, legal planning or other professional services are being solicited, this process may be used to select the most qualified firm or individual to award the bid, with price or fees to be negotiated following 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 Select Board 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.

**State of Vermont Contract.** Local participation/acquisition under a State of Vermont contract which has previously incorporated a competitive bid process.

**Recurring Purchases.** If the total value of a recurring purchase of a good or service is anticipated to exceed \$5,000 during any fiscal year, the bid process shall be used 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.


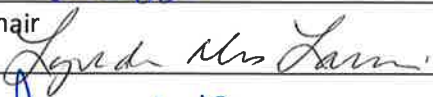


**Emergency Purchases.** The provisions of this policy may be waived in the event of an emergency in which there is a significant and imminent threat to public health or safety, to municipal property, or to the delivery of necessary community services. The Select Board may award contracts and make purchases for the purpose of meeting the public emergency without complying with the bid process. The Select Board Chair, Road Foreman, Highway Superintendent, Fire Chief, Health Officer, or other town official designated by the Select Board shall have the authority to purchase emergency supplies and services while acting in the best interest of the town, under the town's approved Local Emergency Operations Plan. 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. Documentation of all emergency purchases and expenditures shall be maintained and provided to the Town Treasurer.

**Leasing.** Leasing equipment may be considered by the Select Board in lieu of purchasing if leasing presents as a more economical option. The Select Board shall approve all equipment leases in accordance with this procurement policy and its adopted capital budget and program, taking into consideration the type, capacity and quality of the equipment to be leased; the relative cost, extent and terms of the lease agreement, including any lease-to-purchase options; and the capacity, ability and availability of the vendor or supplier to service and repair the equipment and provide needed technical support.

**Professional Services.** Professional services for which the cost is expected to exceed \$5,000 in any fiscal year shall normally be procured through the issuance of a request for qualifications (RFQ) as specified above; however, the Select Board, at its discretion, may waive the formal bid process for legal, financial, auditing, engineering, architectural, risk management, insurance or other professional services that are characterized by a high degree of professional knowledge, judgment and discretion, that may be difficult to compare, or that are required to address a particular municipal circumstance or need. The Select Board shall act in the best interest of the municipality in procuring such services, and clearly document the procurement process.

The foregoing policy was adopted by the Select Board of the Town of Bolton, Vermont, the 18th day of July, 2016.

The forgoing policy was amended by a majority of the Select Board of the Town of Bolton, the 15<sup>th</sup> day of February 2021, and is effective as of this date until amended or repealed.

  
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