



Town of Foster

Est. 1781

Municipal Purchasing Policy

Section 1 - Purpose

The purposes of this regulation are to standardize the purchasing procedure of the Town of Foster thereby securing for the town the advantages of a centralized and uniform purchasing policy saving taxpayers' money and increasing public confidence in the procedure for municipal purchasing; to promote the fair and equitable treatment of all suppliers of goods and services; and to set forth the duties and responsibilities of the department head and the Purchasing Agent, thereby fostering interdepartmental cooperation and trust in the purchasing system.

Section 2 – Legal Authority

This Policy is adopted pursuant to the authority contained in Section 45-55-9, Rhode Island General Laws, 1956, 1988 Reenactment, as amended (RIGL) and the Town's Home Rule Charter, section 14.02.

Section 3 – Definitions

1. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.
2. "Change order" means a written order signed by the purchasing agent, or contractor directing or allowing the contractor to make changes which the changes clause of the contract authorizes the purchasing agent or contractor to order without the consent of the contractor or purchasing agent.
3. "Purchasing agent" means the Town Treasurer
4. "Construction" means the process of building, altering, repairing, improving, or demolishing any public structures or building, or other public improvements of any kind to any public real property. It does not include the routine maintenance or repair of

existing structures, buildings, or real property performed by salaried employees of the municipality in the usual course of their job.

5. "Contract" means all types of agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts, purchase orders, and construction management contracts. It also includes supplemental agreements with respect to any of the preceding. "Contract" does not include labor contracts with employees of the town.
6. "Contract modification" means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It includes bilateral actions, as supplemental agreements, and unilateral actions, as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option.
7. "Contractor" means any person having a contract with the town.
8. "Data" means recorded information, regardless of form or characteristic.
9. "Employee" means an individual drawing a salary from a municipality, whether elected or not, and any non-salaried individual performing personal services for any municipality.
10. "Negotiation" means contracting by either of the methods described in RIGL §§ 45-55-6, 45-55-7, and 45-55-8.
11. "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
12. "Regulations" means rules and regulations adopted by the town, concerning the implementation of the provisions of this chapter.
13. "Services" means the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports which are merely incidental to the required performance of services. "Services" does not include labor contracts with employees of governmental agencies.
14. "Supplemental agreement" means any contract modification which is accomplished by the mutual action of the parties.
15. "Supplies" means all property, including, but not limited, to leases of real property, printing and insurance, except land or permanent interest in land.

Section 4 – Applicability

Procurements, not to exceed an aggregate amount of \$10,000 for construction and \$5,000 for all other purchases shall be made in accordance with this Policy. Procurement requirements shall not be artificially divided so as to constitute a small purchase under RIGL 45-55-9. Purchases in excess of the above specified amounts shall be made in accordance with state law. In accordance with RIGL 45-55-3, the Town Council hereby appoints the Town Treasurer as Purchasing Agent. The Town Treasurer is responsible for ensuring that the Town's procurement actions comply with State law.

Section 5 - Purchasing Agent's Responsibilities

The Purchasing Agent is responsible for ensuring that procurement using grant funds is in accordance with the terms of the grant. He or she is also responsible for ensuring that purchases made with general revenue, special revenue and grant funds are made lawfully. Such funds may not be used to purchase political materials or services. Such funds may not be used to procure goods or services which would benefit Town employees or elected officials. Department Heads will retain bid documentation for a minimum of five years after bid award along with filing said documentation with the Purchasing Agent.

Section 6 - Exclusions

Contracts for professional, architectural, consulting or engineering services are expressly exempted from the terms of this Policy and shall follow the qualification based selection process in accordance with RIGL 45-55-8.1. The procurement of the service of an attorney, physician or dentist by the Town is also expressly exempted from the terms of this process in accordance with RIGL 45-55-14.

Section 7 - Purchasing Authority

The Town Council shall have the following final powers and discretions with respect to all purchases:

1. To purchase or contract for all supplies, materials and equipment required by any office, department or agency.
2. To establish and enforce specifications with respect to supplies, materials and equipment required by the Town.

Section 8 – Purchases Not Requiring Prior Council Approval

The Town Clerk or Department Heads may approve the purchase of any previously budgeted item or items otherwise reasonably necessary or incidental to the day to day functioning of Town offices and departments, without prior approval of the Town Council providing that such purchase shall be in a sum less than \$5,000 (\$10,000 for construction). Such

purchases shall be deemed ratified as if expressly authorized by the Town Council at the time of meeting the above requirements and approval by the Town Clerk or Department Head.

Purchases less than \$2,000

Such purchases may be made without the necessity of seeking competitive bids. Where practicable, however, solicitation of competitive quotations is encouraged.

Purchases greater than \$2,000 but less than \$5,000

Such purchases require three written quotations to be documented with the Purchasing Agent, advertising and approval by the Town Council shall not be necessary. If three written quotes cannot be obtained, it shall be so stated in writing and approved by the Purchasing Agent.

Waiver of written quote requirement

The requirement may be waived if the goods or services have already been competitively bid on a local, regional, state or national level by a governmental organization and the Town is permitted to use the contract price established by the other governmental entity. Documentation of pricing method must be filed with Purchasing Agent prior to procurement.

Section 9 - Bid Purchasing Requirements

Each purchase which is greater than \$5,000 as set forth in the preceding section shall be subject to the method of source selection set forth in RIGL 45-55-2. The Town Treasurer is responsible for ensuring that the Town complies with State law for large procurement actions.

1. Competitive sealed bidding will be the most common method of source selection. Specifications can be prepared that permit award on the basis of either the lowest qualified bid price or the lowest qualified evaluated bid price. The invitation for bids shall state whether award shall be made on the basis of the lowest bid price or the lowest evaluated or responsive bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be stated in the invitation for bids. The invitation to bid shall be advertised in a newspaper of general circulation within the Town and other provisions of RIGL 45-55-5 shall be followed.
2. Upon receiving the report of the Town Treasurer for large procurement actions, the Town Council, by majority vote, shall award the purchase to the lowest qualified bid or the lowest evaluated or responsive bid as required by RIGL 45-55-5. The requirement for competitive sealed bidding shall be considered met if the goods or services have already been competitively bid on a local, regional, state or national level by a governmental organization and the Town is permitted to use the contract price established by the other governmental entity.

Section 10 – Bidding Procedure for purchases in excess of \$5,000

1. Department Head or Town Clerk informs Purchasing Agent (Town Treasurer) of intent to bid in writing. Place of intended advertisement and potential vendor list will be included with the intent to bid.
2. After review and analysis of budget, the purchase agent will either approve or deny the bid process.
3. The purchase agent will notify the Town Council members of his/her determination along with rationale and copies of all pertinent documentation. The Town Clerk will also be notified for placement on the next Town Council Agenda.
4. The Town Council, at the next regularly scheduled meeting, has the power to approve or overturn the purchasing agent's decision.
5. After said meeting the Department Head will proceed with the bidding process.
6. Bids specifications will be due not less than seven days or more than 21 days (as per RIGL) from the date of advertisement.
7. All bids will be returned to the Town Clerk for the purpose of time stamping who will then send them to the Town Treasurer until the next scheduled Town Council meeting.
8. All bids will remain sealed until opened at a regularly scheduled Town Council meeting.
9. The Town Council in collaboration with the Department Head will award the bid.

Section 11 - Sole Source Procurement

A contract may be awarded for a supply, service or construction item without competition when the Town Council (or the Town Clerk or Department Head in the case of small purchasing) determines, in writing, that there is only one source for the required supply, service or construction item as permitted by RIGL 45-55-8.

Section 11 - Emergency Procurement

The Town Council, Town Clerk or Department Head may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions as defined by the State's Emergency Management Agency or where the procurement will be in the best interest of the Town; provided, that emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of a particular contractor shall be included in the contract file.

Effective Date: This Policy shall take effect upon its passage.

ADOPTED BY TOWN COUNCIL

ACTION ON: 3/22/2007