

# Town of West Fairlee

## Purchase and Contracting Policy

Revised: April 16, 2012

Reviewed

**I PURPOSE.** The purpose of this policy is to create a process for purchasing goods and services that will increase efficiency, promote fairness, accountability and confidence, and provide necessary supplies and services in a timely and cost-effective manner.

**II APPLICATION.** This policy shall apply to all purchases of goods and services by the Municipality of West Fairlee except where conditions of state or federal funds, or conditions of a grant, gift or bequest mandate otherwise.

### III DEFINITIONS.

- A. *Major purchases* are those purchases of goods or services in an amount of \$10,000 or more.
- B. *Regular purchases* are those purchases of goods or services in an amount of at least \$1,000 but less than \$10,000.
- C. *Incidental purchases* are those purchases of goods and services in an amount of less than \$1,000.
- D. *Sole source vendor* is a vendor approved by the legislative body to provide certain goods and services for the Town.
- E. *Emergency purchases* are those urgent purchases of goods and services, which are required to protect the public health, safety and welfare.

### IV PROCEDURES.

- A. **Major purchases** require a formal bid process, which shall include:
  - 1. Advertisement of the invitation to bid or request for proposal (RFP) for at least one week in a newspaper of general circulation in the Town of West Fairlee;
  - 2. Advertisement of the invitation to bid or RFP in other newspapers at the discretion of the Selectboard;
  - 3. Direct notice of the bid or RFP to specific providers at the discretion of the Selectboard;
  - 4. Notice of the place and deadline for receipt of the sealed bids or RFPs;
  - 5. A description of the supplies, materials, equipment or services required and information on how and where to obtain more detailed specifications and bid or RFP forms;
  - 6. Information on insurance requirements for the bidder or proposer;
  - 7. A statement of the right of the Town of West Fairlee to reject any and all bids or RFPs if doing so is deemed by the legislative body to be in the best interests of the Municipality; and
  - 8. Public opening of the bids or RFPs by the legislative body at a time not less than 10 business days after the deadline for receipt.
- B. **Regular purchases** require competitive solicitation of bids or RFPs but *may be done* by the formal bid process. Competitive solicitation includes soliciting bids or quotations from at least two (preferably three) vendors unless a sole source vendor has been approved by the Selectboard.

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- C. **Incidental purchases** may be made without a formal bid or competitive solicitation. Such purchases may be made by the Selectboard. Incidental purchasing choices shall be made based on cost, quality of goods and services, and the best interests of the Municipality.
- D. **Sole Source Vendor.** The legislative body may approve a sole source vendor for regular or incidental purchases. Approval shall be made annually at the first regular meeting of the legislative body held in the Municipality's fiscal year and shall take into account general availability of the goods or services, quality and cost of the goods and services, and the ability, capacity and skill of the vendor demonstrated under prior contracts with the Municipality.
- E. **Leasing Equipment.** The Selectboard shall approve all leasing of equipment.
- F. **Purchase Of Professional Services.** The purchase of professional services shall normally be exempt from the formal bid process. It is recognized that proposals for professional services (including, but not limited to, legal counsel, insurance, engineering/architectural services and some other consulting services) are difficult to compare and that weight must be given to many considerations other than price. In any case, the purchase of professional services whose cost is expected to exceed \$3,000.00 for a project must be approved by the Selectboard.
- G. **Cooperative Purchasing.** The Municipality may enter into cooperative lease or purchase agreements with other municipalities, at the discretion of the legislative body.
- H. **Emergency Purchases.** When an emergency threatens the health, lives or property of the residents of the Town, or threatens the property of the Town or the delivery of necessary services to the residents of the Town, the Selectboard shall have the authority to purchase emergency supplies and services while acting in the best interests of the town.
- V. **VENDOR SELECTION.** Vendors will be selected on a competitive basis. Purchases will be awarded to the least costly, best qualified and most responsible vendor. Any or all bids, quotations or proposals may be rejected if such action is deemed to be in the best interests of the municipality. In determining the "least costly, best qualified and most responsible vendor," in addition to price, the following may be considered:
1. The substantial performance of the bidder in meeting the specifications and other terms and conditions of the solicitation;
  2. The ability, capacity and skill of the vendor to perform the contract or provide the goods or services required, and to do so promptly or within the time specified;
  3. The character, integrity, reputation, experience, financial resources and performance of the vendor under previous contracts with the municipality and elsewhere;
  4. The quality, availability and adaptability of the service or goods being purchased, and the ability of the vendor to provide future maintenance if necessary.

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**VI. CONTRACTING FOR SERVICES.** The following procedure will be followed before hiring a new employee or independent contractor:

1. Use the VT Department of Labor ABC Test and the IRS Common Law Rule to determine if this is an employee or an independent contractor.
2. If, after applying ABC Test and IRS Common Law Rule it is determined to be an employee, the Selectboard must provide candidate with a W-4. The completed W-4 must be given to the Treasurer who will setup the new employee in the payroll system. The Treasurer will deduct and file all required State and Federal taxes.
3. If, after applying the ABC test and IRS Common Law Rules, it is determined to be an independent contractor, the Selectboard must give the contractor a non-employee work agreement or contract which includes the following documents:
  - Liability Hold-Harmless Agreement
  - IRS W-9
  - Insurance requirements (we must receive a certificate of insurance with The Town of West Fairlee named as an additional insured)
  - Evidence of Workman's Compensation, or a completed WC Waiver.

All completed forms and a copy of the non-employee work agreement or contract must be given to the Treasurer. All above documents must be filed prior to vendor/contractor commences work or is eligible to receive payment.

A cover sheet for professional services contracts, developed by the Town Attorney, follows this policy and includes provisions for arbitration.

At the beginning of each year the Selectboard must have all non-employees/independent contractors renew this paperwork.

Contracts for major purchases or services, or multi-year contracts, may be reviewed by the Town Attorney at the discretion of the Selectboard.

**VII. TEMPORARY REMOVAL OF VENDORS FROM BIDDERS LIST.** Vendors may be removed from the Town's bidder lists for one or two year periods, afterwards vendors will be returned to the bidders lists. For repeated problems, vendors may again be removed from the bidders lists. Vendors may be removed from the lists for: (1) failure to complete the contract; (2) failure to complete the contract in the usual and customary manner (e.g. poor work or product) while not violating the contract specifications; (3) failure to abide by the terms of the contract; (4) completing work, providing service or product only after the Town forces compliance; (5) causing the Town significant added indirect expense; (6) causing unwarranted public inconvenience.

**VIII. EMERGENCY CLAUSE.** The Selectboard shall approve all requests for emergency purchases. In the event that the Selectboard is unavailable, the appropriate department head may approve essential purchases. The Selectboard shall be notified, within twenty-four (24) hours of the transaction of all purchases made under this policy.

**IX. SEVERABILITY.** If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Policy, or any part thereof, is for any reason held to be unconstitutional or invalid or

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ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Policy or any part thereof.

**X. EFFECT.** No section of this Policy shall be construed to supersede or replace any Vermont statute. This amended Policy shall be entered in the minutes of the Selectboard's meeting. The foregoing amended Policy is hereby adopted by the Selectboard of the Town of West Fairlee and is effective as of the date until amended or repealed.