

Model Purchasing Policy

VLCT developed this model purchasing policy to assist municipalities in their efforts to procure goods and services in a manner that is efficient, timely, cost-effective, and encourages the most open, competitive purchasing process practicable, while treating all vendors equitably. Adopting and following a purchasing policy will increase the public's confidence in the municipal procurement process and will help municipalities adhere to standards and requirements associated with receipt of funds from state and federal government. Please note that the requirements of a municipal purchasing policy do not take the place of any specific procurement or record-keeping requirements that may be imposed on the municipality by a state or federal governmental contract, grant, or loan.

It is up to each municipal legislative body to modify and adopt this model to suit local needs and preferences. This model must be customized by replacing the spaces or italicized text. Please seek legal counsel to review any proposed policy or policy changes before adoption. For additional guidance on municipal policy adoption, refer to our Policies and Ordinances pages (left).

Disclaimer: This resource is only intended to provide information and it does **NOT** constitute legal advice. Readers with specific legal questions are encouraged to contact an attorney. The use or downloading of this resource does **NOT** create an attorney-client relationship and will not be treated in a confidential manner.

If you have additional questions please use the ask a question button to submit them.

Ask a Question

VLCT Model Purchasing Policy Overview

This model policy is intended to reflect best practices in municipal procurement, including competitive bidding for certain purchases and compliance with requirements for purchasing with federal funds. We have included some guidance and references to resource materials to help inform the choices municipal officials need to make while adapting this model to fit their unique needs. It is also important to harmonize this policy within the context of related existing or proposed financial policies or procedures.

Requirements for Using State or Federal Funds

The original source of most state grants, contracts and loan funds is the federal government, so any federal requirements associated with the funds are passed to the recipient municipality. This model policy attempts to incorporate as many of the federal requirements as possible - including the sections on code of conduct and competitive bidding - but the municipality should always carefully read any terms, conditions, or other directives prior to accepting the funds in the first place. It is imperative to adhere to purchasing and other requirements. As of 2015, all federal agencies must adhere to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. This is a consolidation of several OMB (Office of Management and Budget) circulars that previously provided guidance for recipients of federal funds. It includes federal requirements for procurement processes, allowable direct and indirect costs, contract provisions and audit standards.

Procedure to Adopt a Purchasing Policy

All municipal policies must be adopted by majority vote of the selectboard at a meeting held in accordance with Vermont's Open Meeting Law. Consideration and adoption of such a policy should be done well before a major purchase so that there is enough time to discuss the relevant issues and prepare a thoughtful and thorough document. Before adoption, the selectboard may choose to engage other municipal officials and employees to ensure that the policy is reasonable and realistic in terms of the staff resources needed for compliance. After initial adoption, local officials should annually review the town's financial policies to ensure

that each policy remains current.

Model Policy Sections Explained

Affirmative Action and Local Preference - Federal regulations require that towns include minority and women-owned businesses in their bidding processes. Municipalities must maintain written evidence including copies of correspondence that provide evidence of efforts made to reach out to minority and women-owned businesses as well as evidence that the process was fair and equitable with no unfair competitive practices engaged in by the town or vendors.

Federal regulations also require that when federal funds are used for a purchase, the municipality may not exercise a preference for businesses or suppliers based solely on location. On the other hand, when a purchase or contract is funded by local funds, a municipality is free to prefer businesses or suppliers based in or near the municipality. Some communities have set a percentage rate above the low bid when preference will be given to the local contractor.

Code Of Conduct - Federal regulations require that real or apparent conflicts of interest that may arise in the context of municipal purchases and contracting are addressed. If the municipality does not already have a separate conflict of interest policy, it is important to address this topic in the body of a purchasing policy. At a minimum, the policy should define a procedure for public disclosure of the potential conflict and the level of participation permitted when discussion or voting takes place related to the purchase of an item where the conflict exists. It is common for a board member or the family member of a board member to own a local business that supplies materials and/or services to a municipality. In such instances, however, the board member should not be involved in the selection, award, or administration of the purchase or contract.

Documentation - Federal regulations require that for construction projects over \$2,000 and for all other purchases over \$10,000, the municipality must maintain written documentation of the entire bidding and selection process. This includes documentation of efforts to comply

with federal affirmative action requirements including solicitation lists and copies of advertisements; copies of the Request for Bids, Bids and related documentation, copies of meeting minutes where decisions were made, and any other applicable documents.

Purchasing Authority - State law gives the selectboard the ultimate authority over all municipal purchases and allows for the delegation of this authority to municipal officials or employees. A municipal purchasing policy allows the selectboard to officially delegate purchasing authority and sets parameters and requirements for this authority.

Municipalities need to customize this model policy to complement the size and structure of the municipal government. In communities where there is a town or city manager, that individual is the authorized purchasing agent by state law. 24 V.S.A. § 1231(3). In communities without a manager, the selectboard is the authorized purchasing agent, but it may designate specific town officers or employees to make and/or authorize certain purchases.

Depending on the level of municipal staff expertise, the selectboard may want to grant some ability to certain town officers or employees to make purchases of a reasonable dollar amount without requiring prior selectboard authorization. By setting thresholds as to the dollar amount that can be spent without prior approval, and specifying procedures to follow when a purchase is made, municipal affairs can continue to function between selectboard meetings.

Purchasing Levels

This model policy differentiates between three levels of purchases: "Major," "Minor," and "Incidental." The selectboard should assign dollar amounts to each of these categories of purchases when customizing this model, using amounts that make sense according to the size of the community and the expertise of municipal staff. "Major" purchases should be set at a level of significant cost for which the selectboard requires a formal bid process. "Minor" purchases should be set at a dollar value so that they may only be made by an authorized purchasing agent with prior approval. The selectboard may also require several quotes to be obtained before the purchase is made. "Incidental" purchases should be set at a low enough level so that they may be made by a designated purchasing agent without prior approval.

There are also three purchase categories created by federal regulation, titled "micro," "small," and "large." The regulations impose different procedural requirements on each category that must be followed for the municipality to receive or retain federal grant funding. And while a municipality may impose purchasing and bidding requirements that are stricter than those imposed by the federal government, it may not impose requirements that are less strict.

Under the federal government's categories, so-called "large" purchases are those that exceed the so-called "Simplified Acquisition Threshold," which is set at \$250,000 in 2018 and is an inflation-adjusted number. Construction projects of any size also fit within the federal definition of "large" purchases. If these purchases are made with federal funds, the federal government requires the use of a sealed bid process. Purchases are "small" if they are between \$10,000 (\$2,000 in the case of construction projects subject to Davis Bacon requirements) and \$250,000. Purchases of this size require price or rate quotes from "an adequate number of qualified sources," which means that two or more vendors should be asked to provide quotes. "Micro" purchases are categorized by the federal government as those under \$10,000 (\$2,000 in the case of construction projects subject to Davis Bacon requirements) and may be awarded without any kind of competitive quotes if the price is deemed to be reasonable. Despite the lack of formal requirements for "micro" purchases, a reasonable effort should be made to distribute purchases equitably among qualified vendors.

Competitive Bidding /Bid Selection

The use of federal funds usually requires a formal bid procedure, including a sealed bid process for purchases over \$250,000. Municipalities are free to set much lower thresholds and require a formal bid process and/or sealed bids for any size purchase.

While competitive bidding is not required under Vermont law, it can have significant advantages for local governments. A choice of purchasing options allows a municipality to locate the most cost-effective suppliers of goods and services and make effective cost/quality comparisons. The process may include verbal and/or written quotations for purchases below a certain dollar threshold and a formal bidding process for higher dollar purchases. The use of such a process does not necessitate a low-bidder approach. The "Criteria for Bid Selection"

section should clearly articulate the municipality's expectations.

In purchasing the services of a professional consultant, or when a service is of a specialized nature, the selection process is different. Cost, while important, should not be the principal factor. More key factors to consider are the expertise, knowledge, financial resources, and experience of the individual or company providing the service. The selection processes can include the following:

Request for Qualification (RFQ). The RFQ process evaluates the professional qualifications of an individual or firm to provide consulting services. It usually is not project specific but may be related to specific skills being sought. If you are planning a bridge renovation, you will be interested in structural engineering services. VTrans uses the RFQ process to develop a list of qualified consultants that will be considered for any future work the agency may be planning. These lists are available to communities upon request.

Request for Bid (also called "Request for Proposal" or "RFP"). A request for bids invites qualified firms to submit bids / proposals for a specific project. The project should be sufficiently well defined to give the consultant some good understanding of the task to be accomplished and any timelines, meetings with the public and/or board members or other tasks to be performed.

With either a Request for Qualifications or a Request for Bids/Proposals, the procedure to follow for soliciting proposals is similar. Prepare an invitation to submit a proposal that briefly defines the professional service being sought. Include a reasonable deadline (including date, time, and location) for submitting the proposals. A statement should also be included that "reserves the community's right to reject any or all bids if such action is deemed in the best interest of the community."

Advertise this invitation in a newspaper with a sufficiently broad circulation to reach all who may be qualified. In addition to the newspaper ad, send the notice to a selected group that has previously worked for the community or that may be qualified. Document the outreach performed and remember that federal funding requires bids to be solicited from minority and women-owned businesses. The submitted proposals should be opened publicly at the designated time. Either the board or an appointed selection committee should review the

proposals and arrange interviews with those determined to be most qualified.

It is important to remember that no bid may be awarded to a vendor who has been debarred, suspended, or otherwise excluded from or ineligible for federal funding. Excluded parties (vendors) may be found on the website Sam.gov, the on-line grant award management system used for federal grants management.

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