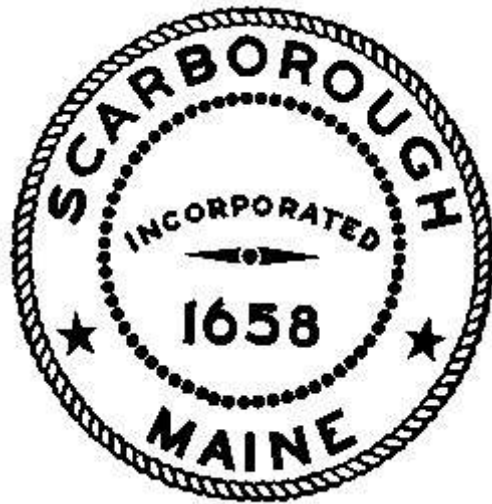


CHAPTER 304
TOWN OF SCARBOROUGH
PURCHASING POLICY



Adopted 4/20/1994
Amended 04/18/2001
Amended 09/17/2003
Amended 11/01/2017
Amended 04/03/2019

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CHAPTER 304
TOWN OF SCARBOROUGH
MUNICIPAL PURCHASING POLICY

Section 1. Purpose

The purposes of the regulation are to standardize the purchasing procedure of the Town of Scarborough thereby securing for the town the advantages of a centralized and uniform purchasing policy saving the taxpayers' money and increasing public confidence in the procedures 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 heads and the Purchasing Agent, thereby fostering interdepartmental cooperation and trust in the purchasing system.

Section 2. Definitions

1. Bid most advantageous to the Town.

“Bid most advantageous to the Town” means a bid chosen on the basis of price, quality of merchandise, suitability of merchandise, and service reputation of the vendor, and therefore may not necessarily mean the lowest bid received.

2. Competitive bidding.

“Competitive bidding” means the process of obtaining the bid most advantageous to the Town for any purchase, whether through formal or informal bidding procedures.

3. Informal bid.

“Informal bid” means a written or oral quotation obtained from an approved vendor but not required to be opened publicly at a specified day, place and time.

4. Field purchase.

“Field purchase” means an informal purchase of supplies needed in small quantities for day-to-day operation made directly by a Department Head or her/his designated representative from any vendor. [Amended 11/02/17]

5. Formal bid.

“Formal bid” means a written quotation obtained in a sealed envelope from an vendor or through advertisement and opened at a specific day, place and time.

6. Cooperative purchase.

“Cooperative purchase” means a purchase made by the Town in conjunction with or from another governmental or quasi-governmental agency, such as but not limited to, the State of Maine, Greater Portland Council of Governments, the School Department, the Sanitary District or another municipality.

7. Purchase.

“Purchase” means buying, renting, leasing, or otherwise acquiring supplies or services for a price.

8. Purchasing Agent.

“Purchasing Agent” means the Assistant Town Manager or the Town Manager’s designee.

9. Services.

“Services” means the lease or rental of all grounds, buildings, offices, space or equipment required by the Town, the repair or maintenance of equipment or real property owned by or the responsibility of the Town and all labor furnished to the Town by persons, firms, individuals or corporations not part of or connected with the Town government. “Services” shall not include professional services provided to or for the Town by lawyers, architects, engineers, auditors and consultants. Nor shall “services” include utilities such as electricity, water, and phone services.

10. Specifications.

“Specifications” means standards, including quality, set by department heads as a guide to the Purchasing Agent and as a measure of that which successful vendors must achieve. Specifications shall be either technical specifications for bids, which shall state formulations as broadly as practicable, yet shall be specific enough to describe the requirements of the department or non-technical specifications for bids, which shall state the quality required in general terms.

11. Supplies.

“Supplies” shall mean all supplies, materials and equipment.

Section 3. Applicability

This regulation shall apply to purchases made by departments and agencies of the Town, except as otherwise specified herein.

Section 4. Appropriation

Neither the Purchasing Agent nor any Department Head shall make any purchase or allow any purchase to be made until an appropriation therefore has been approved by the Town Council.

Section 5. Purchase Limits

1. A Department Head or the Department Head’s designated representative may make field purchases when the total purchase price for the goods or services being purchased is less than \$500.00. [amended 09/17/03][amended 04/03/19]
2. A Department Head may execute written orders when the total purchase price is \$5,000.00 or less and the requirements of this Purchasing Policy are complied with by the Department Head or

her/his designee. Any purchase of computer hardware or software requires consultation with the IT Department prior to purchase. [amended 09/17/03][amended 11/01/17][amended 04/03/19]

3. The Purchasing Agent shall make any purchase when the total purchase price exceeds \$5,000.00 up to an amount within the municipal operating budget. (amended 04/18/01). (amended 09/17/03)

4. The Town Council shall approve and authorize any purchase beyond the amount as approved in the municipal operating budget. (amended 04/18/01).

Section 6. Competitive Bidding

1. Competitive bids shall be required for all purchases in excess of \$2,500.00 unless specifically exempted by this Policy or by action of the Town Council.

2. Informal bidding procedures shall be allowed when a purchase is required to be by competitive bidding if the total purchase price is less than \$10,000, unless the Purchasing Agent recommends use of formal bidding procedures. [amended 04/03/19]

3. Formal bidding procedures shall be followed by the Purchasing Agent in all other cases when competitive bidding is required by this Policy.

4. The Purchasing Agent may make cooperative purchases without competitive bidding if the Purchasing Agent determines the purchase is being made after competitive bidding by the cooperative entity or at price more advantageous than the Town would be likely to obtain by competitive bidding.

5. The Purchasing Agent may waive the requirements for competitive bidding for purchases of \$25,000.00 or less in cases of emergency or when the purchase is inappropriate for competitive bidding due to the nature of the item, time constraints or other factors, provided that the Purchasing Agent shall file a full and complete statement of the reasons for waiving competitive bidding.

6. Purchases of computer hardware or software will be reviewed with the IT Department for approval prior to the bidding process. [adopted 04/03/19]

Section 7. Procedure for Formal Bidding

The procedure for formal bidding shall be as follows:

1. Invitation for Bids. The Department Head or Purchasing Agent shall prepare the invitation for bids, describing the Town's requirements clearly, accurately and completely, but avoiding unnecessarily restrictive specifications or requirements that might unduly limit the number of bidders. The term "invitation for bids" means the complete assembly of related (whether attached or incorporated by reference) material furnished prospective bidders for the purpose of submitting sealed bids. The Purchasing Agent shall determine that the requirements of the Town

are clearly and accurately and completely stated within the invitation to bid. Every invitation to bid shall note that all purchases are subject to the conditions set forth in Section 9 hereof.

2. The Department Head or Purchasing Agent shall publicize the invitation for bids through distribution to prospective bidders, posting on the purchasing page of the Town's website, posting notice in the office of the department(s) involved, or such other means as the Purchasing Agent determines is appropriate at least ten calendar days prior to the time set for public opening of sealed bids. While no preference shall be made for local vendors, every attempt shall be made to ensure that appropriate local vendors are notified of applicable advertised bids. [amended 04/03/19]

3. Bidders shall submit sealed bids to the Town prior to the date and time specified for the opening of bids. Late bids shall not be accepted and no bidder shall be permitted to withdraw a bid after the deadline for bids specified in the invitation to bidders.

4. Bids shall be publicly opened at the time and place specified in the invitation to bid. A contract shall be awarded to the responsible bidder whose bid conforms to the invitation to bid and will be the most advantageous to the Town. Award may be delayed pending verification of a bidder's credentials and references or review of the bids received.

5. Nothing in this section shall preclude the Town from rejecting any and all bids as provided in Section 9 of this Policy.

Section 8. Procedure for Informal Bidding.

1. The Department Head or the Purchasing Agent shall solicit competitive bids either by written notice sent to vendors, and by posting on appropriate Town bulletin boards and the purchasing page of the Town's website. The notice shall contain specifications as to quantity and quality required, the availability of bid packages or other details, and the date and time when bids must be received. If bids will be opened publicly and read, the notice shall also specify the date, time and location where they will be opened and read. Any solicitation or advertisement shall note that all purchases are subject to the conditions set forth in Section 9. [amended 04/03/19]

2. All bids shall quote delivered prices, terms of payment and cash discounts if applicable. If oral quotations are accepted, the Purchasing Agent or the Department Head shall make a record of the quotation. The person from whom the quote is received, and the date and time the quote is received by the Town shall be recorded.

3. The Purchasing Agent or Department Head shall attempt to solicit at least three vendors on every purchase subject to informal bidding procedures. If less than three bids are received, or if in the opinion of the Department Head or the Purchasing Agent no bids are acceptable, rebidding may be required.

4. In all cases the bid most advantageous to the Town, price, quality, and other factors being considered, shall be awarded.

Section 9. Administrative Procedures and Conditions

Competitive Bids shall be administered by the Purchasing Agent and shall be subject to the following conditions:

1. The Department Head or Purchasing Agent shall keep a record of all bids submitted and such records shall be opened to proper inspection by any person.
2. All bidders shall be notified in writing of bid results within ten days after the bids are opened.
3. Tie bids shall be resolved by the Town Manager except that if the price exceeds \$25,000.00, the Town Council shall resolve the tie.
4. All bids shall be awarded on the basis of the bid most advantageous to the Town.
5. The Town reserves the right to accept or reject any or all bids, to investigate the qualifications of any bidder, and to waive or not waive any and all informalities in the bids when making an award.
6. If an award is made to other than the low bidder, the Purchasing Agent shall file a full and complete statement of the reasons for determining that the low bid was not the bid most advantageous to the Town, together with all papers relating the bidding process.
7. The Town retain custody of all bids submitted to the Town pursuant to this policy.

Section 10. Duties of Department Heads [amended 04/03/19]

1. Determine acceptable quality of commodities and supplies to be purchased.
2. Share knowledge of special factors which will implement a policy designed to enable the Town to minimize cost and maximize quality.
3. Prepare requisitions with an eye toward cooperative purchasing and keep corresponding records to facilitate correct accounting charges.
4. Be empowered to reject any unacceptable supply or commodity on the ground of high cost or low quality, and provide the Town Purchasing Agent a written detailed report of any rejection.
5. Foster planned bulk or cooperative purchasing to minimize direct purchases.

Section 11: Ethical Purchases and Procurement Process (adopted 09/17/03)

It is in the interest of the Town of Scarborough to purchase and procure items of apparel, textiles and recreational equipment from responsible and ethical contractors who provide quality goods and services at a competitive price and who generally adhere to international conventions on wages, workplace health and safety, forced labor, child labor and freedom of association.

1. Application of Purchasing Code of Conduct.

This subchapter applies to competitive bids for the purchase of apparel, footwear or textiles pursuant to Chapter 304. Every purchase of apparel, footwear or textiles shall be accompanied by a signed affidavit stating that the bidder has complied with the municipal purchasing code of conduct established under Section 11 and that, to the best of the bidder’s knowledge, the supplier at the point of assembly of the goods subject to the bid process is in compliance with the municipal purchasing code of conduct. The Purchasing Agent shall submit a series of questions (Exhibit A, Sample Form) to the vendor to determine the manufacturing facilities in which the products under consideration are made, to ascertain working conditions at these manufacturing facilities and to demonstrate that working conditions are of concern in the Town’s purchasing decisions. Contract award will favor those retailers, suppliers, wholesalers, distributors and manufacturers who operate in accordance with established codes of corporate conduct regarding wages, workplace health and safety, forced labor, child labor, and freedom of association, as embodied in United Nations (U.N.) and International Labor Organization (I.L.O.) conventions.

2. Statement of belief; protection of local interests.

The affidavit provided by the municipal purchasing agent to bidders for contracts to provide goods covered by this subchapter must include a copy of the following statement:

“Scarborough is a town that believes employers should fairly compensate hard work, that the health and safety of working people should be protected and that no form of unlawful discrimination or abuse should be tolerated. Scarborough citizens are aware that law and regulations designed to safeguard basic tenets of ethical business practice are disregarded in many workplaces, commonly referred to as “sweatshops.”

3. Information Retained.

The Town’s Purchasing Agent, or designee, shall retain records of all information for 25 months regarding manufacturing working conditions supplied by the vendors replying to all purchase or bid solicitations. Any additional information used by the Purchasing Agent in making a bid award shall also be retained with the bid documentation. All records will be available to the public.

4. Report.

The Municipal Purchasing Agent shall submit a report to the Finance Committee by September 15 of each year concerning the administrative and financial impact of these requirements, the degree of voluntary compliance with the municipal purchasing code of conduct by the vendors; the number of vendors who agreed to and the number that declined to comply with the provisions of this subchapter; and any other information relevant to the municipal purchasing code of conduct.

**TOWN OF SCARBOROUGH, MAINE
DISCLOSURE OF MANUFACTURER'S WORKING CONDITIONS**

Vendor's Name _____
Address _____
Telephone _____ Email _____
Website _____
Information Provider – Name _____ Title _____

SOURCE OF PRODUCTS

Manufacturer _____ Website _____

Address _____

Contact Person _____ Telephone _____ Email _____

Products Provided _____

Production Facility _____ Website _____

Address _____

Contact Person _____ Telephone _____ Email _____

1. Does the manufacturer comply with applicable laws of the country of origin? Yes ___ No ___
2. Is there any known child, forced, or indentured labor within the manufacturing facility? Yes ___ No ___
3. Are manufacturing employees free to speak up about working conditions without fear of reprisals? Yes ___ No ___
Are worker's unionized? Yes ___ No ___
4. The average wage for full-time production workers at the facility is _____ excluding benefits.
5. Do full-time production workers receive health insurance? Yes ___ No ___
6. Comments (e.g., other benefits, health and safety, environmental issues) _____

Verified by (information provider)

Name _____ Title _____

Signature _____ Date _____

Note: This form is to be submitted with any bid proposal solicitation or as directed by the Town's Purchasing Agent or Department making an apparel purchase. Additional pages can be attached if necessary.