

TOWN OF DANVILLE PURCHASING POLICY

Adopted February 20, 2025

PURPOSE. The purpose of this Purchasing Policy is to obtain the highest quality goods and services for the Town of Danville at the lowest possible price, to exercise financial control over the purchasing process, to clearly define authority for the purchasing function, to allow fair and equal opportunity among qualified suppliers, and to provide for increased public confidence in the procedures followed in public purchasing. In addition, the Town of Danville recognizes that Federal and some State grant funding impose stricter regulations for procurement and that in every case the Town must follow the procurement regulations stipulated in the grant agreement.

AFFIRMATIVE ACTION Whenever possible, qualified disadvantaged businesses (see CFR § 200.321) shall be included in the solicitation lists for bids or non-bid purchases. If the purchase is federally funded in whole or in part, disadvantaged businesses must be included in the solicitation lists and all other affirmative action requirements outlined in the grant provisions must be followed.

CODE OF CONDUCT. All individuals elected or statutorily appointed to perform executive, administrative, legislative, or quasi-judicial functions of the Town are required to perform those duties following the Town's Policy Regarding Conflicts of Interest and the Municipal Code of Ethics (Section 22.24 V.S.A. Chapter 60)

Additionally, employees, officers, board members, and agents of the municipality 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 municipality shall participate in selection, award, or administration of a contract if a conflict of interest, real or apparent, is involved. Such a conflict would arise when:

- the employee, officer, board member, or agent,
- any member of their immediate family,
- their partner, or
- an organization which employs, or is about to employ, any of the above, has a financial or personal interest in the firm/vendor selected for award.

An employee, officer or agent of the municipality 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 in writing and submit the disclosure to the Selectboard's Administrative Assistant before the bid selection or purchase takes place.

Officers, employees, board members, and agents of the municipality will not solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub -agreements.

Officers, employees, board members, and agents who fail to follow the above Code of Conduct shall be sanctioned or disciplined, to the extent permitted by law, for violations of the above standards.

DOCUMENTATION. If the purchase is federally funded in whole or in part, records documenting the procurement process for any purchases shall be maintained. Documentation shall include the reason for the specific procurement method chosen, contract type selection, contractor selection or rejection, the basis for the award and the basis 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.

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 if the purchase or project was funded with federal grants, or until the completion of any litigation, claim, negotiation, audit, or other action involving the records, whichever is longer. The records for property and equipment acquired with the support of Federal funds must be retained for three years after final disposition.

Otherwise, records shall be maintained by the municipality in accordance with the retention and disposition schedules as set by the Vermont State Archivist.

Purchasing Agents. The following employees are designated to act as Purchasing Agents for the municipality:

- Town Clerk
- Assistant Town Clerk
- Road Foreman
- Fire Chief

Purchasing Agents are responsible for ensuring that the best possible price and quality are obtained with each purchase. Purchasing Agents shall review all proposed procurements to avoid unnecessary or duplicative purchases of equipment, supplies and services. Purchasing Agents shall also ensure that competition is not restricted with unreasonable requirements or qualifications placed on vendors, or by allowing vendors to be selected who have engaged in non-competitive pricing practices.

Purchasing Categories and Requirements. The three customary purchase categories when only municipal funds are used are incidental, minor, and major. Additionally, there are four purchase categories created by Federal regulation, titled micro, simplified (small), formal (large), and non-competitive (sole source) . Purchasing categories have a spending range and threshold as designated below. Employees who have been designated to act as Purchasing

Agents may make purchases in these categories subject to certain requirements.

For Purchases with Municipal Funds Only.

Incidental Purchases. Purchases up to \$4,000 All employees who have been designated to act as Purchasing Agents may make incidental purchases without prior approval, provided those purchases are limited to the amount of the budget authorized by the Town.

Minor Purchases. Purchases with a value between \$4,000 and \$12,000 Only the Town Clerk and Road Foreman, who have been designated to act as Purchasing Agents, may make minor purchases. Minor purchases must have prior approval of the Selectboard and are limited to the amount of the budget authorized by the Town. Although not required, competitive quotes from at least two vendors should be obtained whenever possible.

Major Purchases. All purchases over \$12,000 Only the Town Clerk and Road Foreman, who have been designated to act as Purchasing Agents, may make major purchases and such purchases require prior approval of the Selectboard. The Selectboard shall review all proposed procurements to avoid unnecessary or duplicative purchases of equipment, supplies and services. The Selectboard shall also ensure that competition is not restricted with unreasonable requirements or qualifications placed on vendors or bidders, or by allowing vendors to be selected who have engaged in noncompetitive pricing practices. Price and rate quotations shall be solicited from at least two qualified vendors to ensure that the Town has received a fair and reasonable price. Vendors will be selected based on cost, the quality of the goods and services offered, and the ability, capacity, and skill of the vendor. All capital equipment purchases, and highway/road projects provided by outside vendors must follow a sealed bid process.

The following Minor and Major Purchases are exempt from prior Selectboard approval:

- Equipment repairs
- Truck repairs and parts
- Special lubricants

For Purchases in Whole or in Part with Federal Funds.

Only the Town Clerk and Road Foreman, who have been designated to act as Purchasing Agents, are authorized to make purchases in categories created by Federal regulations.

Micro Purchases. Purchases of up to \$4,000, or, in the case of construction projects subject to Davis Bacon requirements, below \$2,000. Soliciting competitive price or rate quotations is not required if the Town Clerk or Road Foreman considers the price reasonable based on research, experience, purchase history, or other information; and maintains documents to support their conclusion.

Simplified Acquisition (Small Purchases). Purchases with a value between \$4,000 and \$250,000, inclusive of any future contract amendments. Price or rate quotes must be obtained from an adequate number of qualified sources following the affirmative action provision of this policy and all provisions regarding fair and unrestricted competition.

Formal Purchases (Large Purchases). Purchases of \$250,000 or more. The purchasing process for large purchases depends on the purchase. Regardless of process used, a cost or price analysis must be performed for all large purchases, including contract modifications.

Sealed Bids. Large purchases in which specifications are available, two or more responsible bidders are willing and able to compete for the business, and the purchase lends itself to firm-fixed-price contracts and the selection of a successful bidder made principally on price. The Sealed Bid purchase process is used primarily for construction projects.

An invitation for bids must be publicly advertised with sufficient response time prior to bid opening. Notice of the Request for Bids shall be made by letters to known providers soliciting bid responses and advertisements placed in a newspaper of general circulation in the region. Bids must be opened publicly at a date, time, and place specified in the bid invitation. A firm-fixed-price contract is awarded in writing to the lowest responsive bid and responsible bidder. Documentation must provide justification for any rejected bid.

Proposals. Large purchases that do not lend themselves to firm-fixed-price contracts and the selection of a successful bidder made principally on price. A Request for Proposals must be used except for architectural/engineering (A/E) professional services. A/E services may use a Request for Qualifications process. If the project is funded by the Federal Highways Administration, a Request for Qualifications process is required.

Public notice is required, and all evaluation factors and their relative importance must be identified in the request. Price and other factors may be considered. All solicitations will identify the method for conducting proposal evaluation and proposer selection. Proposals must be solicited from multiple qualified entities. Either a fixed price or cost-reimbursement contract must be used if a contract is awarded.

Non-Competitive (Sole Source) The noncompetitive purchasing method may only be used if one of the following circumstances applies:

- 1) The aggregate amount of the purchasing transaction does not exceed the micro purchase threshold;
- 2) The purchasing transaction can only be fulfilled by a single source;
- 3) The public exigency or emergency for the requirement will not permit a delay resulting from providing public notice of a competitive solicitation;
- 4) The Town requests in writing to its granting agency to use a non-competitive purchasing method, and the Federal agency or pass-through entity provides written approval; or
- 5) After soliciting several sources, competition is determined inadequate.

The Selectboard or Purchasing Agent must document its justification for using non-competitive purchasing. The purchase must still comply with other purchasing requirements and ensure that costs are reasonable. Non-competitive purchases for \$250,000 or more require a cost analysis to determine the reasonableness of the proposed pricing and must be completed in

accordance with the requirements of the federal or state agency issuing the grant funding. Exigency and emergency situations may demand immediate aid or action such that an exception to normal purchasing requirements must occur. The purchase must still comply with other purchasing requirements and ensure that costs are reasonable. The Selectboard or Purchasing Agent must document its justification for using noncompetitive purchasing. Immediately upon awarding a noncompetitive contract, the process of competitively procuring similar goods and services must begin to transition to competitively procured contracts as soon as the exigency or emergency ceases to exist.

SEALED BID PROCESS. The sealed bid process shall be initiated by the issuance of a Request for Bids prepared by the Selectboard or its designee. Notice of the Request for Bids shall be made by letters to known providers soliciting bid responses and advertisements placed in a newspaper of general circulation in the region.

BID SPECIFICATIONS. A list of bid specifications shall be prepared for each purchase over \$250,000, or for construction projects of any value that are funded with state or federal dollars and shall be available for inspection at the municipality office. Bid specifications shall include:

- Bid name.
- Bid submission deadline.
- Date, location, and time of bid opening.
- Specifications for the project or services including quantity, design, and performance features.
- Bond and/or insurance requirements.
- A copy of the proposed contract.
- Any special requirements unique to the project or purchase.
- Delivery or completion date.
- Language notifying all bidders to bid to specification with any exceptions noted by the bidder.
- Language notifying the bidder that by submitting a bid they certify 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 their behalf without connection with or obligation to any undisclosed person or firm.
- Language that reserves for the Selectboard 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 municipality's interest. The Selectboard reserves the right to investigate the financial condition of any bidder to determine their ability to assure service throughout the term of the contract.

In addition to the above, in the case of a contract supported by federal funds and certain state grant funds, these additional criteria shall apply:

- 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. The bidders must also include costs for compliance with Davis Bacon and Related Acts if that is a requirement of the federal agency providing the funding.
- Wage determinations for substantial activities and contract clauses per the Davis Bacon Act. 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, including record keeping, certification and weekly submission of payroll, and record maintenance.
- Language notifying bidders whether Buy America requirements apply.
- Language stating the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962.

Once a Request for Bids has been issued, the bid specifications will be available for inspection at the municipality office.

BID SUBMISSION. All bids must either be submitted in sealed envelopes or electronically.

Bids Submitted in Sealed Envelopes. Bids submitted in this manner shall be addressed to the Selectboard and plainly marked with the name of the bid and the time of the bid opening. Bid proposals will be date-stamped and time-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 bid received after the time and date specified shall be determined to be a rejected bid and be recorded as such in the meeting minutes and in the purchasing documentation.

Bids Submitted Electronically. Bids submitted in this manner shall be emailed to the Selectboard's Administrative Assistant with a required return receipt requested upon email opening. The Administrative Assistant will open and print electronic bids and then place them in a sealed envelope for the Selectboard to open. The envelope will be date-stamped and time-stamped on the outside along with the name of the bid and the time of the bid opening. Any electronically submitted bid may be withdrawn by email notification prior to the scheduled time for the opening of bids. Any bid received after the time and date specified shall be determined to be a rejected bid and be recorded as such in the meeting minutes and in the purchasing documentation.

BID OPENING. Every bid received prior to the bid submission deadline will be publicly opened and read aloud by the Selectboard. 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.

After the opening of bids or receipt of proposals or quotes, the State of Vermont Debarment List (<https://bgs.vermont.gov/purchasing-contracting/debarment>) shall be checked to ensure that no award is made to a listed contractor. If the purchase is federally funded in whole or in part, the Federal Excluded Parties List System (<https://www.sam.gov>) shall also be checked. Both the firm and the firm's principal(s) must be checked. Any subcontractors identified in the proposal should be checked.

Proposals, quotations, or offers received from any listed contractor shall not be evaluated for award or included in the competitive range, nor shall discussions be conducted with a listed offeror during a period of ineligibility, unless the Selectboard Chair determines, in writing, that there is a compelling reason to do so. If the period of ineligibility expires or is terminated prior to award, the Town may, but is not required to, consider such proposals, quotations, or offers.

CRITERIA FOR BID SELECTION. In evaluating bids, the Selectboard will consider the following criteria:

- Price.
- Bidder's ability to perform within the specified time limits.
- Bidder's experience and reputation, including past performance for the municipality.
- Quality of the materials and services specified in the bid.
- Bidder's ability to meet other terms and conditions, including insurance and bond requirements.
- Bidder's financial responsibility.
- Bidder's availability to provide future service, maintenance, and support.
- Nature and size of bidder.
- Contract provisions that are acceptable to the municipality.
- Any other factors that the Selectboard determines are relevant and appropriate in connection with a given project or service.

In addition to the above, in the case of a contract supported by federal funds and certain state grant funds, the additional criteria shall apply:

- Disadvantaged businesses must be included in the solicitation list for the request for proposal.
- Contractor's indication of acceptance of wages in the current wage determination provided as part of the Request for Bids.
- The Town shall award contracts only to responsible contractors that possess the ability to perform successfully under the terms and conditions of a proposed contract. The Town must consider contractor integrity, public policy compliance, proper classification of employees (see Fair Labor Standards Act, 29 U.S.C. 201, chapter 8), past performance record, financial and technical resources, and suspension and debarment status when conducting a procurement transaction.

CHANGE ORDERS. If specification changes are made prior to the close of the bid process, the

Request for Bids will be amended. Notification of the specification change, and amendment shall be sent by letter to known providers and advertisements shall be placed in a newspaper of general circulation in the region, and notice shall be sent to any bidder who has already submitted a bid. Once a bid has been accepted, if changes to the specifications become necessary, the Selectboard will prepare a change order specifying the scope of the change. Once approved, the contractor and an authorized agent of the municipality must sign the change order.

EXCEPTIONS. For purchases using only municipal funds, the following exceptions may apply, however there must be written documentation created and maintained that outlines the process and rationale when such exceptions are used:

Competitive Proposals. 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 Bids (RFB) or Request for Qualifications (RFQ) prepared by the Selectboard or its designee that includes the factors that will be used to evaluate and compare the proposals. Bids or qualifications shall be obtained from an adequate number of qualified sources (at least two vendors) to ensure that the municipality has received a fair and reasonable price and all notification and record keeping requirements of the sealed bid process shall be followed. If architectural or engineering services are being solicited, this process should be used with the most qualified firm or individual awarded the bid and price or fees negotiated after the award. If competitive proposals are used, all 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 Selectboard determines that there is only one source for a proposed purchase, it may waive the bid process and authorize the purchase from the sole source.

Recurring Purchases. If the total value of a recurring purchase of a good or service is anticipated to exceed \$250,000 during any fiscal year, the bid process shall be utilized 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 Selectboard votes to initiate a new bid process.

Emergency Purchases. The Selectboard may award contracts and make purchases for the purpose of meeting public emergency without complying with the bid process. An emergency is defined as a threat to life, public health or safety, or improved property, or some other form of dangerous situation that requires immediate action to alleviate the threat. Emergency conditions generally are short term

Professional Services. The bid process shall not apply to the selection of providers for services that are characterized by a high degree of professional judgment and discretion including legal, financial, auditing, risk management, and insurance services with a value of up to \$250,000.

CONTRACTS. Upon conclusion of a procurement process, the Town may develop a contract for goods or services.

Debarment and Suspension. Immediately prior to the award, the State of Vermont Debarment List (<https://bgs.vermont.gov/purchasing-contracting/debarment>) shall be checked again to ensure that no award is made to a listed contractor. If the purchase is federally funded in whole or in part, the Federal Excluded Parties List System (<https://www.sam.gov>) also shall be checked.

Contract Type. If the purchase is federally funded in whole or in part, the Town may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk.

Contract Provisions. If the purchase is federally funded in whole or in part, the Town's contracts must contain the applicable provisions described in Appendix II to CFR Part 200. Procurement documentation should make bidders aware of these requirements.

Value Engineering Clauses. When practical, the Town may use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering means analyzing each contract item or task to ensure its essential function is provided at the overall lowest cost.

The foregoing Policy is hereby adopted by the Selectboard of the Town of Danville this (20th) day of (February) and is effective as of this date until amended or repealed.

Janice Ouellette

Janice Ouellette, Chair

Eric Bach

Eric Bach, Vice Chair

Peter Griffin

Peter Griffin

Alison Low

Alison Low

Glenn Herrin

Glenn Herrin