



Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

Purchasing Ordinance and Policy Work Group

Friday, October 12, 2018

7:30a.m.

Main Meeting Room, Town Hall, 933 Hopmeadow Street

SPECIAL MEETING AGENDA

Call to Order

- 1) Discussion on Purchasing Policy Ordinance and Policy
- 2) Next Steps
- 3) Future Meeting Dates

Adjournment



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Town of Simsbury, CT

Sunday, August 12, 2018

Chapter A161. Purchasing

[HISTORY: Adopted by the Board of Selectmen of the Town of Simsbury 3-23-1992. [\[1\]](#) Amendments noted where applicable.]

GENERAL REFERENCES

First Selectman duties — See Charter Section 602.

Expenditures and accounting — See Charter Section 912.

[\[1\]](#)

Editor's Note: This resolution also repealed former Ch. A161, Purchasing, adopted 5-30-1990.

§ A161-1. Purpose; objectives.

A. Be it resolved by the Board of Selectmen of the Town of Simsbury that in order to amplify Sections ~~602 and 912~~ 812 of the Town Charter and to provide a systematic and uniform standard of purchasing policies, the Board hereby adopts the following procedures which are incorporated into this chapter.

B. Purchasing objectives:

(1) To procure materials, supplies, equipment, public improvements, and services at the lowest cost while obtaining the highest quality products and services possible. consistent with the quality and service rendered.

(2) To conduct purchasing without regard to political affiliation, race, color, creed, sex, age, religion, national origin, marital status, sexual orientation, genetic makeup, gender identity, military service and veteran's status, disability, or any other protected class, family relationship or business associations of vendors, contractors or consultants.

§ A161-2. Purchase orders required.

All proposed purchases shall be supported by a purchase order ~~issued prior to purchase~~, signed by the issuing department head and the Finance Director or his/her agent. Oral approval may be given in emergencies but shall be followed immediately by a written purchase order.

§ A161-3. Annual orders.

Annual orders of items used on a volume basis, which exceed, in the aggregate, ~~\$10,000~~ \$2,000, shall follow the procedures outlined below. ~~No scheduled purchase on the annual order shall exceed \$100 unless authorized by a purchase order.~~

§ A161-4. Verbal and written quotes.

Purchases in ~~excess of \$7,500 amounts from \$500 to \$2,000 but less than \$10,000~~ shall have documented verbal or written quotes, whenever possible, from at least ~~two~~ three vendors. ~~Purchases in amounts from \$2,000 to \$7,500 shall have written quotes, whenever possible, from at least three vendors.~~

§ A161-5. Bids; contracts required.

Purchases or contracts expected to exceed ~~\$10,000~~ \$7,500 shall require formal sealed bids and the execution of a written contract between the ~~lowest responsible~~, qualified bidder and the Town. Such sealed bids shall ~~be~~ opened in public at the time and place designated in the specifications. The Town may accept substitutes that meet the same criteria as outlined in the specifications. Requests for formal sealed bids shall be issued by the issuing department head, received by the date due and turned in to the Finance Director.

~~A. Bids expected to be between \$7,500 and \$25,000 shall be solicited from at least three vendors from a list of interested vendors. The vendor list shall be maintained, updated, and distributed by the Finance Director or his agent. A notice shall be published in a newspaper having a general circulation in the Hartford area, during the first week of May and the first week of June each year, inviting all interested vendors and contractors to submit their names and area of interest to the Finance Director. Vendors may be added to the list at any time, or at the initiative of the Finance Director. Every attempt shall be made to retain a list containing no fewer than three vendors. In case of exception, approval of the Board of Selectmen shall be required.~~

B. Purchases or contracts expected to exceed \$25,000 shall be advertised at least 10 days prior to the bid opening in a newspaper having a general circulation in the Hartford area or on a website such as but not limited to the CT Department of Administrative Services website or the Town's official website as a by means of a formal "invitation to bid."

C. An appropriate fee may be charged for a copy of plans and specifications, said fee, or portion thereof, to be refunded upon return of the plans and specifications within the designated period.

D. A bid bond equal to 5% of the bid, a 100% performance bond and a 100% labor and materials or payment bond shall be posted for all contracts in excess of \$100,000 ~~\$45,000~~, other than commodities, in a manner acceptable to the Director of Finance.

§ A161-6. Awarding of contract.

The Finance Director or his/her designee or Town Manager or his/her designee ~~the First Selectman~~ is authorized to award contracts, ~~with the following exception, which shall be awarded by action of the Board of Selectmen: any bid other than the lowest responsible bid when the contract or purchase is in excess of \$5,000.~~

§ A161-7. Signing of purchase orders or contract.

A. The Finance Director or his/her designee and/or Town Manager or his/her designee ~~First Selectman~~ is authorized to sign all purchase orders. The Town Manager or his/her designee ~~First Selectman~~ is authorized to sign all formal contracts approved under the appropriate procedure as stipulated herein.

B. Under an existing contract, any change order which increases the contract amount shall be subject to prior budgetary approval by the Finance Director and approved by the Town Manager or his/her designee, ~~First Selectman~~ for any change in the scope of the project.

§ A161-8. Rejection of bids.

The board, person or agent having the authority to award may reject any or all bids, part of all bids or all bids for any one or more supplies or contractual services included in the proposed contract, or waive defects in same when the public interest will be served best thereby.

~~§ A161-9. Determination of equal bids.~~

~~In the case of equal bids involving a local and outside vendor, the local vendor shall be given preference, providing that both are equally qualified to perform the service. If two equally qualified outside (local) bidders submit equal bids, the winner shall be selected by drawing lots or the flip of a coin.~~

~~§ A161-9.1. Local vendor preference; Town-based business.~~

~~[Added 10-26-2009]~~

~~A. "Town-based business" defined. "Town-based business" shall mean a business with a principle place of business located within the Town of Simsbury. A business shall be considered to be a Town-based business by establishing through competent evidence that the business has a bona fide principle place of business in Simsbury. Such evidence shall include proof of fee ownership or a long-term lease of the real estate for the building where the principal place of business is operated. A documented Town-based business shall maintain such status throughout the term of any contract with the Town of Simsbury. Failure to maintain such status or to keep current on all property tax obligations to the Town of Simsbury or the Simsbury Fire District shall be grounds for the Town to terminate the contract.~~

~~B. Local vendor preference. For the procurement of any goods advertised for bid pursuant to the Town's Purchasing Regulations, as amended, the lowest responsible bid shall be determined in the following order:~~

~~(1) Any Town-based business which has submitted a responsible, responsive bid for purchases exceeding \$2,500 but less than \$250,000, which is not more than 5% higher than the lowest qualified bid or quote, may be awarded the contract so long as such Town-based business meets the specification requirements and details and agrees to provide the supplies, materials, equipment, commodities and/or services which are the subject of such procurement at the same price and the same contract terms as the lowest qualified bid received. Notwithstanding the foregoing, to qualify~~

~~for the bid award, each Town-based business shall meet all other terms, conditions and requirements set forth in the purchasing regulations and the bid solicitation. This section shall not apply to bids for purchases in excess of \$250,000.~~

~~(2) In the event that more than one Town-based business submits a bid or quote not more than 5% higher than the lowest qualified bid or quote, the award shall be to that Town-based business originally submitting the lowest qualified bid or quote.~~

~~C. Implementation of local bidder preference. Any bidder claiming to meet the requirements of a Town-based business as defined in this section shall be required to submit a signed Town-based bidder affidavit form with the bid submittal. Such affidavit shall include a certification that the Town-based business is paid in full on all current property tax obligations owed to the Town of Simsbury and the Simsbury Fire District. Failure to submit the Town-approved affidavit form shall result in disqualification as a Town-based bidder and ineligibility for contract award unless such requirement is waived by the Town upon a finding by the Town that such waiver is in the Town's best interest. This section applies to bids submitted by vendors and contractors that will directly supply the Town's requirements and specifically excludes agents and/or subcontractors of general contractors.~~

~~D. Restrictions on use of local bidder preference. This section shall not apply to any bid solicitation where the preference created by this section would violate federal and state law or any existing contracts. This section shall not apply in bid solicitations where the bid requested involves a cooperative purchasing arrangement between the town and other municipalities, the State of Connecticut or the Capitol Region Council of Governments Purchasing Council.~~

~~E. Expiration. This section shall expire on November 1, 2013, unless it is reauthorized by the Board of Selectmen.~~

§ A161-10. Exemption from bids.

~~A. Purchases made through or on the basis of regional, or state, local government or cooperative agency bids shall be exempted from any bidding procedures.~~

~~B. A purchase may be made or contract awarded for a supply, service or construction item without a competitive bid when it is determined that there is only one source for the required supply, service or construction item. Such determination shall be made after appropriate advertisement in the newspaper, trade magazine, or similar medium of general circulation.~~

~~C. The bid procedures outlined herein can be waived at any time if it is deemed to be in the best interest of the Town of Simsbury by either the Finance Director or the Town Manager. All waivers shall be reported to the Board of Selectmen at a regularly scheduled meeting for review.~~

§ A161-11. Professional services contracts.

~~Contracts for professional services (legal, engineering, architectural, etc.) in excess of \$50,000 are required to go out for a request for qualifications (RFQ). Services under \$50,000 shall not be governed by these regulations, but every effort shall be made to secure well-qualified professionals at the best terms possible for the Town.~~

§ A161-12. Emergencies.

A. In case of emergency the Finance Director ~~First Selectman~~ may, or in the best interest of the Town, the Town Manager ~~Board of Selectmen~~ may, waive the procedures outlined herein, ~~and the Board of Selectmen may prescribe alternative procedures for specific situations.~~

B. Emergency situations shall be those in which the operation of a department would be seriously hampered; or in which life, limb or property may be endangered; or in which the health or welfare of the general public is seriously threatened; or a natural or man-made disaster has occurred.

§ A161-13. When effective; revisions.

These bidding and purchasing regulations shall become effective as of March 23, 1992, and may be revised or amended from time to time by formal action of the Board of Selectmen.

§ A161-14. Board of Education transactions.

Separate procedures shall be established for Board of Education transactions.

§ A161-15. Conflict with Charter or state law.

In the event of any conflict between these procedures and the Charter of the Town of Simsbury or the Connecticut General Statutes, these procedures shall be construed to conform to the Charter or

statutes, as the case may be.

§ A161-16. Review and adoption.

The procedures outlined herein shall be reviewed, amended ~~if necessary~~, and adopted by the Board of Selectmen as needed ~~on an annual basis~~. These procedures shall remain in effect until amended.



Town of Simsbury

933 HOPMEADOW STREET ~ SIMSBURY, CONNECTICUT 06070

TOWN OF SIMSBURY PURCHASING POLICY AND PROCEDURES

I. Purpose

The purpose of this policy is to ensure that the Town of Simsbury obtains the highest quality of desired goods and services at the most competitive price. Further, this policy aims to streamline the procurement process while maintaining adequate internal controls.

II. Applicability

This policy applies to all staff, elected officials, and appointed officials involved in the procurement process.

III. Effective Date

This policy shall remain in effect until revised or rescinded. The Town reserves the right to amend this policy as necessary.

IV. Policy

A. Purchasing Agent

The Finance Director or his/her designee shall serve as the purchasing agent for the Town of Simsbury. He/she shall be responsible for the procurement of all goods and services as outlined in Chapter A161 of the Code of the Town of Simsbury. The Town Manager or his/her designee shall also be responsible for signing all contracts awarded to a vendor.

B. Competitive Quotes/Bid Thresholds

All purchases between \$7,500 - \$10,000 shall have quotes solicited from at least two (2) vendors. Vendor quotes can be written or verbal.

Bids shall be issued for purchases in excess of \$10,000 and require a formal written contract unless the Town can take advantage of a regional, state, local government or cooperative agency contract. This applies to annual orders (items purchased on volume basis) as well.

A bid bond equal to 5% of the bid, a 100% performance bond and 100% labor and materials or payment bond shall be posted for all contracts in excess of \$100,000, other than commodities, in a manner acceptable to the Finance Director.

A request for qualifications along with a request for proposal shall be issued for professional services (i.e. legal, engineering, architectural, etc.) contracts in excess of \$25,000 unless the Town can take advantage of a regional, State or cooperative agency contract.

Bid procedures outlined herein can be waived at any time if it is deemed to be in the best interest of the Town of Simsbury by either the Finance Director or the Town Manager. All waivers shall be reported to the Board of Selectmen at a regularly scheduled meeting for review.

C. Contracts and Credit Applications

All credit applications shall be completed and signed by only the Finance Director or his/her designee. All vendor contracts shall be completed and signed by the Town Manager or his/her designee.

It is the responsibility of the department head and Finance Director to ensure that contractors perform in accordance with the terms, conditions and specifications in their contracts or purchase orders.

D. Conflicts of Interest

A conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

Any conflict of interest must be disclosed in writing to the Finance Director. The conflict statement will be reviewed by the Finance Director as well as the Town Manager and a determination will be made as to whether to proceed with the respective vendor and formalized in writing.

If the conflict of interest resides with the Finance Director or Town Manager, the Deputy Town Manager will assist in the review and final determination as to whether to proceed with respective vendor.

Federal Grant Requirement: No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest (as defined above).

E. Vendor Selection

The following considerations shall be evaluated during the process of vendor selection:

- The Town is encouraged to take advantage of the lowest possible price while obtaining the highest quality products and services.
- The Town shall ensure the selected vendor is able provide the products/services in a timely manner.

- The acquisition of unnecessary or duplicative items must be avoided. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- The Town is encouraged to use refurbished, excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- The Town is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.
- Contracts shall only be awarded to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- *Federal Grant Requirement:* The Town may use time and material type contracts 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.

F. Grant Funded Purchases

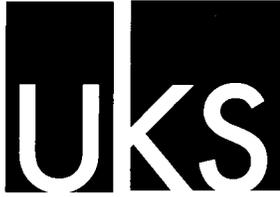
All purchases utilizing grant funds shall follow the Town purchasing policies and procedures as established in this policy.

G. Emergency Purchases

An emergency exists when the operation of a department would be seriously hampered; or in which life, limb or property may be endangered; or in which the health or welfare of the general public is seriously threatened; or a natural or man-made disaster has occurred.

If an emergency determination is made by the Town Manager or Finance Director it may be necessary to deviate from the formal purchasing process. Once the emergency situation has been rectified, all purchases made related to this emergency shall be formalized by the purchasing process as soon as possible.

If a contract is required as part of rectifying the emergency situation, consideration should be made to a short term contract with limited authority whenever possible.



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September 19, 2018

Amy Meriwether
Finance Director/Treasurer
Town of Simsbury
933 Hopmeadow Street
Simsbury, CT 06070

Re: Draft Revision to
Simsbury Purchasing Policy

Dear Ms. Meriwether:

At your request, I have reviewed the proposed draft revisions to the Simsbury Purchasing Policy. The following are my comments:

1. Section A161-5, Bids: The threshold for the requirement for public bids is increased in the draft from \$7,500 to \$410,000. This proposed increase is consistent with General Statutes §7-148v, which requires competitive bidding for purchases in excess of \$25,000 for those municipalities that adopt a purchase ordinance (copy attached).

2. Section A161-5D, Bid Bonds: The threshold for requiring bid bonds is increased from \$15,000 to \$100,000. This is consistent with recent practice of not requiring bid bonds for smaller projects to reduce project cost.

3. Section A161-5(E), Advertising Bids: I recommend retaining the requirement of requiring that bids be advertised by legal notice. Connecticut law does not yet recognize posting on a town website as a legal "public notice".

4. Section A161-9.1, Local Vendor Preference: The draft eliminates the local vendor preference which was sunsetted in 2013. The decision to reinstate the preference is a policy choice to be made by the Board of Selectmen.

5. Form of Government: The changes in reference from the First Selectman to the Town Manager throughout the document are necessary to conform the policy to the current Charter.

Updike, Kelly & Spellacy, P.C.

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Amy Meriwether
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6. Section A161-2, Purchase Orders Required: I suggest the addition of the following language to specifically allow the use of purchasing cards in lieu of purchasing orders:

Notwithstanding the provisions of this section, the Finance Director may allow budgeted agencies to use purchasing cards for purchases not exceeding _____ dollars, unless such agency receives written approval from the Finance Director and the Town Manager to exceed such amount. No budgeted agency, or any official, employee or agent of a budgeted agency, shall incur any obligation using such a card, except in accordance with procedures established by the Finance Director.

7. Other proposed changes to the policy are legally permissible policy choices to be made by the Board of Selectmen.

I trust this responds to your inquiry. Should you have any questions, please do not hesitate to contact me.

Very truly yours,



Robert M. DeCrescenzo, Esq.
Town Attorney

RMDe/psm

Connecticut General Statutes Annotated Title 7. Municipalities Chapter 98. Municipal Powers (Refs & Arnos)
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C.G.S.A. § 7-148v

§ 7-148v. Requirements for competitive bidding. Purchase from person having contract to sell goods or services

Effective: June 9, 2016
Currentness

(a) Notwithstanding the provisions of any municipal charter or any special act to the contrary, any municipality may, by ordinance, establish requirements for competitive bidding for the award of any contract or the purchase of any real or personal property by the municipality. Such ordinance may provide that, except as otherwise required by any provision of the general statutes, sealed bidding shall not be required for contracts or purchases having a value less than or equal to an amount established in the ordinance, which amount shall not be greater than twenty-five thousand dollars. Nothing in this section shall be deemed to invalidate any ordinance enacted by a municipality prior to October 1, 1989. Nothing in this section and no ordinance adopted pursuant to this section shall be construed to limit the ability of a municipality to enter into a contract pursuant to section 4a-53a.

(b) Notwithstanding the provisions of the general statutes or any municipal charter, special act or ordinance, any municipality may purchase equipment, supplies, materials or services from a person who has a contract to sell such goods or services to other state governments, political subdivisions of the state, nonprofit organizations or public purchasing consortia available through a regional educational service center or regional council of governments, in accordance with the provisions of such contract.

Credits

(1989, P.A. 89-136; 2008, Nov. 24 Sp.Sess., P.A. 08-2, § 2, eff. Nov. 25, 2008; 2013, P.A. 13-71, § 1; 2016, P.A. 16-144, § 1, eff. June 9, 2016.)

C. G. S. A. § 7-148v, CT ST § 7-148v

The statutes and Constitution are current with enactments of Public Acts enrolled and approved by the Governor on or before July 1, 2018 and effective on or before July 1, 2018.



Town of Simsbury

933 HOPMEADOW STREET ~ SIMSBURY, CONNECTICUT 06070

To: Board of Selectmen
From: Amy Meriwether, Finance Director
CC: Maria Capriola, Town Manager
Date: September 24, 2018
Re: Purchasing Ordinance and Purchasing Policy Items for Consideration

The Board of Finance reviewed the revised draft of the Purchasing Ordinance and proposed Purchasing Policy at its regular scheduled meeting on August 21, 2018. The following recommendations were made for consideration:

1. Purchasing Thresholds for Quotes/Bids
 - a. Should language be added to the policy that allows the utilization of an inflation index related to the purchasing thresholds in an effort to minimize the number of times the policy/ordinance has to be updated?
 - b. When bids are received and it doesn't make sense to go with the lowest bidder, should the Board of Selectmen approve the selected vendor? Or should management have the ability to approve the selected vendor and report any instances at the Board of Selectman and/or Board of Finance meetings?
2. Emergency Purchases
 - a. Should the emergency purchases section of the ordinance be expanded to give management the flexibility to refrain from quote/bid requirements when purchases are time sensitive and obtaining quotes/bids would create a hindrance?
3. Quote/Bid Waivers
 - a. Based on discussions at a recent department head meeting, department heads would like language added to the ordinance/policy that allows management to waive quote/bidding requirements when it doesn't make sense to go out to bid.
 1. Board of Finance members were fine with this recommendation, however, they did request that when these instances occur, they are reported to the Board of Selectmen/Board of Finance during their monthly meetings for transparency purposes.

4. Circumventing the Ordinance/Policy
 - a. It was suggested we add language in the ordinance/policy that states the ordinance/policy cannot be circumvented by creating multiple purchase orders for the same type of purchase/project in an attempt to not have to obtain quotes or go out to bid.

5. Board of Education Consistency
 - a. Board of Finance members would like to see consistency between the town and board of education policies.

ADMINISTRATIVE REGULATIONS PURCHASING PROCEDURES

The Simsbury Board of Education recognizes its obligation to deal fairly in its purchasing practices. The Board of Education and its employees will not knowingly extend favoritism to any vendor. Each order shall be placed on the basis of quality, price and delivery. Past service of a favorable nature shall be a factor when other considerations are equal. Inadequate or poor past service shall always be a factor. Competitive bidding shall be practiced wherever feasible and to the advantage of the Simsbury School System. Wherever practical, feasible and to the advantage of the Simsbury School System, appropriate advertisements will be placed.

This procedure shall also apply to purchases for extra-curricular school activities, and for purchases by the Student Body.

I. DEFINITIONS

- A. Quotation: A notice, either orally or in writing, whereby a vendor informs the purchaser of the conditions and price under which he/she will furnish supplies, materials, equipment or services to the purchaser.
- B. Bid: A notice, in writing in a sealed envelope, delivered to the buyer by a specified date, to be opened in public at a specified date and time by the purchaser, whereby a vendor informs the purchaser of the conditions and price under which he/she will furnish supplies, materials, equipment or services to the purchaser in response to a set of specifications set forth by the purchaser.
- C. Purchase Order: The formal written contract to purchase the goods or services offered.

II. PURCHASING PROCEDURES

- A. All purchases must have a purchase order issued prior to purchase, signed by an issuing authority. Oral commitments may be made in emergencies, but must be followed promptly by a written purchase order.
- B. Annual orders will be issued to vendors with whom the school system does regular business. Each purchase on the annual order will not exceed \$100 unless authorized by a purchase order.
- C. Purchases in amounts from \$1000 to \$5,000 must have verbal quotes from at least three vendors, whenever possible. Purchases in amounts from \$5,000 to \$25,000 must have written quotes from at least three vendors, whenever possible. In the instance of a sole source purchase, a written estimate must be obtained.
- D. Purchases or contracts expected to exceed \$25,000 will require formal sealed bids to be opened in public at the time and place designated in the specifications. Requests for formal sealed bids should be put out by the issuing authority, collected by the date due and turned in to the Business Manager.

2. Purchases or contracts expected to exceed \$25,000 will also be advertised in a newspaper having a general circulation in the Valley area by means of a formal "Invitation to Bid."
 3. A fee may be charged for a copy of specifications, said fee to be refunded upon return of the specifications within the designated period, should the cost of the specifications warrant such a charge.
 4. A performance bond shall be posted for all contracts in excess of \$25,000 other than for commodities.
 5. A contract in any amount, within budgetary limits, may be awarded for goods or services without competition when the Superintendent or Business Manager documents in writing that one of the following conditions exists:
 - a. when the service or goods offered is unique to one vendor;
 - b. when equipment is being purchased for compatibility with existing equipment;
 - c. when an emergency exists and there is insufficient time to write specifications and take bids.
- E. The Business Manager shall be authorized to award bid contracts. The Simsbury School System reserves the right to reject any or all bids, and reserves the right to waive any informalities in any bid.

Revised November 25, 2008