

PURCHASING POLICY

Purchasing Agent.

The Town Manager is designated by the Charter as the Purchasing Agent for the Town. Accordingly, the Town Manager and Department Heads are authorized to spend within budget appropriations. No purchase of supplies, material and equipment shall be made unless funds are appropriated by the Town Council, except as otherwise provided in the Town Charter or by other specific act of the Town Council.

Conflict of Interest

No person authorized to act on behalf of the Town shall enter into any agreement, contract, purchase order, etc., with any individual, firm, corporation, organization, or entity, in which said person, any family member, or significant other, has a financial interest. The act of doing so will be cause for disciplinary action.

Town personnel, regardless of their authorization to act on behalf of the Town, are obligated to disclose any potential conflicts of interest and must recuse themselves from participating in any decision making for the Town related to such conflict.

Purchases of Goods and Services; under \$10,000.

Purchases for goods and services involving less than Ten Thousand Dollars (\$10,000.00) may be made in the open market by the Purchasing Agent or their designated Department Head(s) without competitive bids or quotes so long as the cost of the goods or services are considered reasonable by the Purchasing Agent.

Purchases of Goods and Services; \$10,000 - \$25,000.

Purchases for goods and services involving an expenditure of Ten Thousand Dollars (\$10,000.00) to Twenty-Five Thousand Dollars (\$25,000.00) may be made in the open market by the Purchasing Agent without competitive bids so long as the of cost of the goods or services are reasonable. The required procedure shall be to solicit and evaluate written price and rate quotations from at least three (3) qualified sources.

Purchases of Goods and Services; over \$25,000

On all purchases of goods and services involving an expenditure greater than Twenty-Five Thousand Dollars (\$25,000.00), the required procedure shall be to seek competitive bids affixing a date and time limit for the reception of bids along with an outline of the evaluation criteria.

All bids for federally funded projects shall be advertised in a paper of general circulation at least 14 days prior to the close of the bid. All other projects are allowed to use the Town's website and social media at least fourteen (14) days prior to the date of closing of bids.

The Town shall solicit from at least three (3) qualified sources. All bids shall be in writing, sealed, with outside envelope or wrapper plainly marked according to the terms stipulated in the bid document and mailed to or filed with the Purchasing Agent. No official or employee of the Town shall open such a bid until the appointed time. At the time and place stated in the notice, all bids shall be opened and publicly read by the Town Purchasing Agent or by someone designated by them for that purpose. All such bids may be inspected by those present.

Purchases of Goods and Services; over \$100,000.

In addition to the procedures above for purchases over \$25,000, purchases greater than One Hundred Thousand Dollars (\$100,000) shall be approved by Ordinance of the Town Council.

Awards.

(a) Recommendations for award of purchases over \$10,000 by Department Heads(s) shall be submitted to the Purchasing Agent, including a summary of how the required bidding or quoting process listed above was satisfied.

(b) Awards following competitive bids or proposals shall be made by the Purchasing Agent or their designee, to the most qualified bidder, price, quality and service considered. Bid Documents shall outline the evaluation criteria. Nothing herein shall be construed to affect the authority of the Purchasing Agent to reject any bid if it is in the best interest of the Town to do so.

(c) Awards following competitive proposals or competitive sealed bids which contain federal funding must give preference to qualified minority, woman, or veteran owned business enterprises so long as the bidder can adequately fulfill the contract for the price identified in the bid, assuming the quoted bid price falls within the appropriated budget for the purchase.

Records.

Records of all submitted bids and awards shall be retained by the Purchasing Agent or their designated Department Head(s) according to State Records Retention Guidelines. All such records are to be considered public records unless specifically exempted by State Law.

Waiver of Bid Process.

When the nature of a purchase renders the competitive bidding process ineffective by virtue of the specialized and professional nature of the goods or service, the Purchasing Agent shall document the nature of the purchase and the technique used to ensure the best quality and price for the Town. A waiver of the bid process may be authorized by the Town Manager when the services or goods are:

- a) A single source item (goods or services directed to a specific supplier due to standardization, warranty or other factors);
- b) Must meet compatibility requirements with existing equipment owned by the Town or by a contracted third party;
- c) A specialized service with only one vendor available; or
- d) A product or service is unique and easily established as one of a kind.

Emergency Purchases.

In the case of any emergency circumstances (*an urgent and unexpected requirement where health, public safety, or the conservation of public resources is at risk*), a Department Head, acting with the advice and approval of the Town Manager, may require the immediate purchase of materials, supplies, apparatus, or property in the open market at the lowest price obtainable. The Town Manager shall notify the Town Council as soon as possible after the emergency situation has subsided, as to the steps taken to affect the purchase, the emergency situation that existed, and the methodology utilized to assure the best possible price given the attendant circumstances.

Combined Purchases.

The Town Purchasing Agent is hereby authorized to combine with other units of Government, the Maine Municipal Association, or any other organization formed to increase the purchasing power of the Town for purchasing purposes, in which event such regulations as may be jointly agreed to shall be applicable in lieu of the regulations herein.

Federal Procurement, Award, and Contracting Requirements

The following includes additional steps that must be included in bid proposals and contracts for federally funded purchases:

- A. For purchases exceeding Two Thousand Dollars (\$2,000), competitive quotes must be obtained;
- B. All bids for federally funded projects shall be advertised in a paper of general circulation at least 14 days prior to the close of the bid;
- C. Bid notices and proposal must state the type of federal funding included in the project;
- D. Bids for construction contracts in excess of Two Thousand Dollars (\$2,000) must state that Davis Bacon Labor Standards apply and the bid must contain the labor wage rates applicable to the type of work being solicited;
- E. Contracts over Ten Thousand Dollars (\$10,000) must address termination for cause and for convenience by the entity including the manner by which it will be effected and the basis for settlement;
- F. Contracts over One Hundred Thousand Dollars (\$100,000) that involve the employment of mechanics or laborers must include a provision for compliance with Title 40 U.S.C. 3702 and 3704.
- G. Bids for an award exceeding One Hundred Thousand Dollars (\$100,000) shall file the

required certification under the Byrd Anti-Lobbying Amendment;

- H. The Town must perform an independent estimate before receiving any bids or proposals on any projects in excess of One Hundred and Fifty Thousand Dollars (\$150,000);
- I. The Town will comply with any and all additional regulations where additional Uniform Guidance regulations may exist where it's a subrecipient or may have its own subrecipients.
- J. Contracts shall not be awarded to parties who have been suspended or debarred from participating in government contracts. To verify vendor has not been excluded, sam.gov can be utilized; and
- K. All contracts shall include the following when applicable:
 - a. Equal Employment Opportunity clause;
 - b. Town's rights to inventions made under a contract or agreement;
 - c. Contain a provision on compliance with the Clean Air Act and the Federal Water Pollution Control Act;
 - d. Contain mandatory standards and policies relating to energy efficiency in compliance with the Energy Policy and Conservation Act;
 - e. Comply with Section 6002 of the Solid Waste Disposal Act;
 - f. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide such sanctions and penalties as deemed appropriate; and
 - g. Address termination for cause and for convenience by the Town, including the manner in which such termination will be effected and the basis for settlement.

ALLOWABLE COST POLICY

Scope

This policy outlines the allowability and importance the proper treatment of costs on federally funded projects.

Reason for Policy

To provide guidance for determining allowable costs on federally sponsored awards and ensure compliance with the Uniform Guidance.

Policy Statement

The Office of Management and Budget developed the Uniform Guidance (2 CFR, Part 200 Subpart E) to describe the treatment of costs on sponsored project activities (direct and indirect) that can be billed to the federal government. The Uniform Guidance applies to all federally funded projects including federal funding through a non-federal agency. The cost principles also identify those charges that typically cannot be charged to sponsored awards and are considered Unallowable expenses.

The OMB Uniform Guidance (§200.420 through §200.475) lists costs that are Allowable and not Allowable as an expense on a Federal award. Many sponsors have policies that address costs that are Allowable.

Allowable Costs

A cost that is Allowable must also be:

- Necessary and Reasonable for the performance of the award and be Allocable.
- Conform to any award limitations or exclusions.
- Consistent with policies and procedures that apply to both Federal and other non-Federal activities.
- Consistently treated.
- Determined in accordance with generally accepted accounting principles (GAAP).
- Not included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period.
- Adequately documented.

Reasonable Costs

Typical tests to determine if a cost is Reasonable:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.
- The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state and other laws and regulations; and terms and conditions of the Federal award.
- Market prices for comparable goods or services for the geographic area.

- Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal government.
- Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

Allocable

This standard is met if the cost:

- Is incurred specifically for the sponsored project;
- Benefits both the sponsored project and other work of the Town and can be distributed in proportions that may be approximated using Reasonable methods; and
- Is necessary to the overall operation of the Town and is assignable in part to the sponsored project.

Direct Costs

The salaries of administrative and clerical staff should normally be treated as Indirect (F&A) Costs. Direct charging of these costs may be appropriate only if **all** of the following conditions are met:

- Administrative or clerical services are Integral to a project or activity;
- Individuals involved can be specifically identified with the project or activity;
- Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency; and
- The costs are not also recovered as Indirect Costs.

Materials and supplies used for the performance of a sponsored project may be charged as Direct Costs. In the specific case of Computing Devices, charging as Direct Costs is Allowable for devices that are essential and Allocable, but not solely dedicated, to the performance of a Federal award.

Consistent treatment of costs is required on federal awards. A cost may not be assigned to a Federal award as a Direct Cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an Indirect Cost.

Indirect Costs

Indirect Costs are costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.

Indirect Costs at higher education institutions are infrastructure costs of the Town needed to support the programs of the institution, including research and other sponsored programs.

Building depreciation, maintenance costs, the cost of electricity and heat, accounting services, personnel services, departmental administration, purchasing, and human subject administration are examples of Indirect Costs.

Compliance Review of Costs

The Purchasing Agent or their delegate must perform a documented review of costs charged to sponsored projects in a timely manner to ensure allowability of costs in accordance the Uniform Guidance and/or the terms of the specific contract or grant. In addition to the review of costs, a

comparison of expenditures with budget amounts must also be performed to verify budget accuracy and determine if a budget revision is necessary.

Unexpected or Extraordinary Circumstances

In unexpected or extraordinary circumstances, a sponsoring agency may direct a normally unallowable cost to be considered a direct cost for a specific program if the inherent purpose of the program requires it. This cost will be considered allowable if it satisfies the requirements for direct costs and is sufficiently documented. All costs charged to grants under these circumstances should be treated consistently, no matter the funding source (Federal or non-Federal).

Unallowable Costs

It is expected that costs will be posted to the correct grant or contract at the time of purchase. However, in the event that an Unallowable cost is discovered and the transfer of a charge is required, the transfer should be made as soon as the need for correction is identified. For payroll correcting entries, departments must make every effort possible to transfer the costs within the fiscal year in which the original transaction occurred. If the payroll correcting entry is not made within the one-year correction period, a payroll correcting entry form must be completed and submitted to the Sponsored Programs Office for review and approval.

Certain Allowable non-sponsored expenses may be Unallowable for purposes of the F&A Cost Proposal. Examples include fines/penalties, commencement expenses, and fund-raising activities. Unique project numbers are used to identify Unallowable activities.

Cost Share

For all Federal awards, any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, must be Allowable under Subpart E—Cost Principles of the OMB Uniform Guidance.

Documentation

All costs on federal sponsored projects must be Allowable, Allocable and Reasonable in addition to being verified by someone in the position to know the appropriateness of the charge (e.g., the Purchasing Agent). The Purchasing Agent may delegate some of the duties associated with daily financial management of the award to appropriate staff in accordance with Segregation of Duties policy 21302, however, the Purchasing Agent retains full responsibility for all activity on the award. Appropriate documentation must be maintained by the Department in accordance with Town Records Retention Policy and the terms and conditions of the award.

At the end of the award, the Purchasing Agent must certify that all expenditures reported in the general ledger for an award are Allowable in accordance with provisions of the award documents and, where required, corrections have been or will be made. If the Purchasing Agent is not available, an individual with direct knowledge of the project (i.e., Purchasing Agent's delegate or the Departmental Research Administrator) may certify on the Purchasing Agent's behalf.

Definitions

Allocable - a cost incurred specifically for the program, or several activities but can be distributed between them in Reasonable proportion to benefits received, and is clearly necessary to the program.

Allowable - costs directly related to the performance of a sponsored award and permitted under its terms and OMB guidance that must be Reasonable, necessary, Allocable, and treated consistently with generally accepted accounting principles.

Computing Devices - means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information and acquisition cost of less than \$5,000.

Direct Cost - cost where a specific grant or contract gains explicit benefit from that cost for a specific programmatic purpose. (e.g., salaries, wages, fringe benefits, consultants, materials and supplies, equipment, travel, participant costs, tuition, and subcontracts).

Indirect Costs/Facilities and Administrative (F&A) - costs incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored award (e.g., depreciation of buildings and equipment, computing infrastructure, administrative services, utilities, and custodial services). Generally, these kinds of costs are identified, pooled, and charged against individual programs or funding sources using a rate designed to recover the costs.

Integral - the nature and purpose of the sponsored program lends itself to these types of personnel being essential in the completion and fulfillment of the stated aims and objectives.

Purchasing Agent - is the holder of an independent grant administered by the Town and the primary individual responsible for the preparation, conduct, and administration of a research grant, cooperative agreement, training or public service project, contract, or other sponsored project in compliance with applicable laws and regulations and institutional policy governing the conduct of sponsored research.

Reasonable Costs - a cost is Reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

Unallowable - those charges to an award that the sponsor determines to be Unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the grant or contract.