Chapter 27
Procurement

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Article I, Purchasing

Sec. 27.1 Purchasing agent; specified duties

The town council shall designate a person to be the purchasing agent for the town. He/she shall be responsible for:

1. The purchasing, upon prior approval by council, of supplies, materials and equipment and contractual services required by any office, department or agency of the town government where the price of same is expected to exceed $5,000
2. The storage and distribution of all supplies, materials, and equipment required by any office, department, or agency of the town government.
3. Establishing written specifications, whenever practicable, for supplies, materials, and equipment required by any office, department or agency of the town government. Such specifications shall be definite and certain and shall permit for competition.
4. Maintaining whenever practicable, a perpetual inventory record of all materials, supplies or equipment stores in storerooms or warehouses.
5. Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a bidders list.
6. Obtaining a full and open competition as possible on all purchases, contracts, and sales.

Sec. 27.2 Violations; penalty

Any willful violation of this article shall constitute malfeasance in office, and any officer or employee of the town found guilty thereof shall be subject to termination at the will of the council. Any violation of this article with the knowledge express or implied of the person contracting with the town shall render the contract voidable by the town council.

Sec. 27.3 Formal contract procedure

All supplies and contractual services, except as otherwise provided in this article, when the estimated cost thereof shall exceed $5,000, shall be purchased by the purchasing agent by formal, written contract from the lowest responsible bidder, after due notice inviting proposals. No contract or purchase shall be subdivided to avoid the requirements of this section. All sales of personal property which has become obsolete or unusable, when the estimated value shall exceed $500.00 shall be sold by formal written contract or at a public auction to the highest responsible bidder, after due notice inviting proposals and bidders. For sale of items with value estimated at less than $500.00, department heads can sell with prior approval of council.

Sec. 27.4 Competitive bidding required; exception

Before any purchase or contracts for supplies, materials, equipment or services exceeding $5,000 are made, the purchasing agent shall give ample opportunity for competitive bidding. All bids shall be in writing. Competitive bidding shall be encouraged for all contracts, purchase, or sales. However, in the event of an emergency affecting the public welfare, health, or safety, the provisions of this sections shall not apply. A full report of the circumstances of an emergency purchase shall be filed by the purchasing agent with the town council and shall been entered in the minutes of the council.

Sec. 27.5 Award to lowest bidder; when advertising required

All contracts for town improvements, materials, equipment or services costing more than $5,000 shall be awarded to the lowest responsible bidder after publication in a newspaper of general circulation in the town for at least five days before the last day set effort receipt of proposals; provided, however, that in case of professional services, this section shall not apply. The newspaper notice required in this section shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.

Section 27.6 Bid deposits

When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. Upon entering into a contract, bidders shall be entitled to return of the bid deposit where the purchasing agent has required it. A successful bidder shall forfeit any bid deposit required by the purchasing agent upon failure on his part to enter into a contract within ten days after the award; provided, however, that the town, in its sole discretion, may waive this forfeiture.

Sec. 27.7 Sealed bid procedures

The procedure for sealed bids shall be as follows:

1. Submittal. Bids shall be submitted to the purchasing agent securely sealed in an envelope, and shall be identified on the envelop in accordance with bid instructions.
2. Opening. Bids shall be opened in public at the time and place stated in the public notices.
3. Tabulation. A tabulation of all bids received shall be available for public inspection.
4. Rejection of bids. The purchasing agent shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.

5. Bidders in default to town. The purchasing agent shall not accept the bid of a vendor or contractor who is delinquent in the payment of taxes, license, or other moneys due the town.
6. Award of contracts

   (a) Authority in agent. The purchasing agent shall have the authority to award contracts within the purview of this article; provided, however, that the contracts in excess of $5,000 shall not be awarded without prior approval of the town council.

   (b) Lowest responsible bidder. Contracts shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to the price, the purchasing agent shall consider:

   1. The ability, capacity, and skill of the bidder to perform the contract or provide the service required.
   2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
   3. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
   4. The quality of performance of previous contracts or services.
   5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services.
   6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
   7. The quality, availability and adaptability of the supplies or contractual services to the particular use required.
   8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
   9. The number and scope of conditions to the bid.

7. Award to other than low bidder. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the papers relating to the transaction and held for a period of no less than 12 months.
8. Ties, bids, local vendors. If two or more bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more of such bids are submitted by local bidders, the purchasing agent shall award the contract to one of the local tie bidders by drawing lots in public. If local bidders are not involved in the tie bids, the purchasing agency shall award the contract to one of the outside tie bidders by drawing lots in public. The purchasing agent, local bidders, and vendors should bear in mind, however, that to award a contract to a local vendor where he is not the lowest responsible bidder, or where price, quality and service are not equal, is to give preference to one minute segment of the citizenry against the best interests of the community as a whole.

9. Performance bonds. The purchasing agent shall have the authority to require a performance bond before entering into a contract, in such form and amount as he/she shall find reasonably necessary to protect the best interest of the town.
10. Payment bond/labor and material bond. The purchasing agent may require a payment bond and a labor and material bond before entering into a contract, in such form and amount as he/she shall deem necessary to protect the best interest of the town.

Sec. 27.8 Materials testing

The purchasing agent shall have the authority to require chemical and physical tests of supplies submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In performance of such tests, the purchasing agent shall have the authority to make use of laboratory facilities of any agency of the town government or any outside laboratory.

Sec. 27.9 Purchases by department heads

(a) Purchases where the price is more than $500.00 and less than $5,000 may be made by the department head requesting the purchase with prior approval of the responsible council committee chairman after review of the budget.

(b) Purchases where the price is less than $500.00 may be handled directly by the department head requesting the purchase.

Sec. 27.10 Financial interest of town officials and employees prohibited

No member of the town council or any officer or employee of the town shall have a financial interest in any contract or in the sale to the town or to a contractor supplying the town of any land or right or interests in any land, material, supplies, or services; except when a majority of the town council determines an exception in the best interest of the town, no council member whose interest is involved shall vote on the question.

Sec. 27.11 Records of open market orders and bids

The purchasing agent shall keep record of all open market orders and the bids submitted in competition thereon, and such records shall also be open to public inspection.

Sec. 27.12 Stock reports

All offices, departments or agencies of the town government shall submit to the purchasing agent, at such times and in such form as he/she shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out, or scrapped.

Sec. 27.13 Surplus stock

The purchasing agent shall have authority to transfer surplus stock to other offices, departments or agencies of the town government.

Section 27.14 Supplies unsuitable for public use, sale or exchange

The purchasing agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange them for or trade them in on new supplies. Such sales shall be made to the highest bidder, and in conformance with Section 27.3. All moneys received from such sale shall be paid in the appropriate fund of the town.

Sec. 27.15 Gifts, rebates

The purchasing agent and every officer and employee of the town are expressly prohibited from accepting, directly or indirectly from any person to whom any purchase order or contract is or might be awarded, any rebate, give, money or anything of value whatsoever, except where given for the use and benefit of the town.

Sec. 27.16 Cooperative purchasing

The purchasing agent shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of the town would be served thereby. The purchasing agent of the town is given the authority to make purchases of supplies and equipment through the property division of the state budget and control board, without the formality of publication and receiving competitive bids.