



**BOARD OF SELECTMEN / PROCUREMENT OFFICER**

**Issue Date: October 1, 2018**

**Type of Policy: New ( ) Amendment ( X )**

**Effective Date: October 1, 2018**

**Town Wide Policy**

# **TOWN PROCUREMENT POLICY MANUAL**

M.G.L. CH. 30B – SUPPLIES AND SERVICES

M.G.L. CH. 30 39m – PUBLIC WORKS

M.G.L. CH. 149 – PUBLIC CONSTRUCTION

M.G.L. CH. 7C – DESIGNER SELECTION

## **OBJECTIVE:**

The goal of this manual is to provide a reference tool for staff to understand how the Procurement Department makes procurement decisions and to ensure that all procurements made by the Town comply with the general law, local ordinances, and best purchasing practices. This manual outlines the procurement process and defines the roles of staff, Department Heads, and the Chief Procurement Officer (CPO), which will result in uniform specifications, fair and open solicitations; timely development of contracts and proper contract management

*Should any policy or procedure contained herein not conform to the prevailing laws, such policy or procedure shall be void.*

*All prevailing ordinances, policies and procedures of the Town of Edgartown are incorporated herein without specific reference.*



## **BOARD OF SELECTMEN / PROCUREMENT OFFICER**

### **TABLE OF CONTENTS**

#### **1) AUTHORITY**

- To Purchase
- To Execute Contracts

#### **2) PROCUREMENT LAW APPLICABILITY**

- 30B
- 7C, §44-57
- 149, §44A to 44M
- 30, §39M
- 149, §27 (PREVAILING WAGE)

#### **3) THRESHOLDS**

- 30B
- 7C, §44-57
- 149, §44A to 44M
- 30, §39M

#### **4) COLLECTIVE PURCHASING OPPORTUNITIES**

- COMMBUYS
- MHEC
- MAPC
- GSA

#### **5) RESPONSIBILITIES**

- Department Heads/Project Owners
- Procurement Officer

#### **6) OTHER PROCESSES**

- Purchases Less than \$10,000
- Change Orders, Amendments, Extensions
- Emergency Procurements
- Tax Exempt Status
- Credit Card Policy
- Bid Splitting



## BOARD OF SELECTMEN / PROCUREMENT OFFICER

# TOWN PROCUREMENT MANUAL

### 1) AUTHORITY

#### ▪ TO PURCHASE:

Each fiscal year Departments are budgeted funds by account code. This allocation gives Department Heads the authority to requisition for services, supplies, equipment and construction related services, but does not give the authority to purchase directly from a vendor.

The Chief Procurement Officer is designated by the Board of Selectmen to maintain a centralized purchasing function; therefore, Departments may not make any purchases without proper authorization **in advance of the purchase**. Proper authorization shall be acknowledged as: compliance with the procurement policies and procedures adopted by the Selectmen, and outlined in this manual, for purchases in any amount over \$5,000.

All Departments will follow the purchasing regulations outlined in this manual. This includes the requirement of a Requisition Approval Form for all transactions exceeding \$5,000 and a Bid Request Form accompanied by a Purchase Order or Executed Agreement for all transactions exceeding \$10,000. Unless a Requisition Approval Form or Bid Request Form is submitted and on file with the Accountant, the Town is under no obligation to pay any related invoice. In this situation, liability for the payment rests with the person who made the purchase.

#### ▪ TO EXECUTE CONTRACTS:

**WARRANT ARTICLES:** For any purchase in which money was voted and appropriated with a specific warrant article at Annual Town Meeting (and which has satisfied the requirements of the Warrant Article Request Policy), the Purchase Order or Contract may be executed by the Department Head.

**OPERATING BUDGETS:** For any purchase between \$5,000 and \$100,000, in which money will be expended from a Department's Operating Budget, a Purchase Order or Contract may be executed by the Department Head.

**PURCHASES OVER \$100,000:** For any purchase over \$100,000, the Contract must be signed by at least two members of the Board of Selectmen, the Department Head and the Accountant.

### 2) PROCUREMENT LAW APPLICABILITY

All Town Departments, including the School Department and Departments which operate through an enterprise fund, are subject to the Commonwealth's procurement laws, inclusive but not limited to Massachusetts General Laws Chapter 30B, Chapter 7c, Chapter 30 §39M and Chapter 149.



## **BOARD OF SELECTMEN / PROCUREMENT OFFICER**

In addition to providing legal procurements, it is the Procurement Officer's goal to also provide efficiency and best value to our customers – Town Staff and Departments, and ultimately the tax payers. The CPO is available to provide guidance, internal support and procurement assistance in the development and solicitation of public bids and proposals.

The CPO is responsible for monitoring purchases to ensure procurement practices are compliant with applicable laws, to develop strategies for improvement, to implement policies and procedures, and to identify potential cost-savings and efficiencies in the procurement process.

- **M.G.L. c. 30B – Supplies and Services:**

30B applies to the Procurement of all supplies, services, disposition of surplus supplies, and acquisition or disposition of real property. Under Chapter 30B procurement includes: Purchase, Lease, Lease-Purchase, or Rental.

Items exempt from c. 30B are contained in §1(b). If a Department thinks their purchase may be exempt from 30B, that Department must contact the Procurement Office in advance for determination, in writing, that an exemption applies. If an exemption applies, it will be referenced and included in the written determination provided by the CPO. This written determination shall be provided to the Accountant when the invoice of an exempt purchase is submitted for payment.

- **M.G.L. c. 7C, §44 to 57 – Design Services:**

Procurement of design services (Architect/Engineer, etc.) in connection with a public building project are subject to the Designer Selection Law. Design services connected to a public works construction project are usually exempt from bidding requirements. If a Department Head requires design services for any construction project, the Procurement Officer should be contacted as early in the process as possible.

- **M.G.L. c. 149, §44A to 44M – Public Building Construction:**

Procurement of a contractor for construction, reconstruction, installation, demolition, maintenance or repair of a building by a public agency is subject to the provisions of MGL c. 149, including the provisions for filed sub-bids within certain monetary thresholds. This work is typically defined as “vertical construction”.

There had been much discussion about what defines a “building”; case law has interpreted this generally to be any “structure with walls and a roof”. Any time a physical change is made to a building it is considered a building contract.

- **M.G.L. c. 30, §39M – Public Works Construction:**

This work is typically defined as “horizontal construction”. It includes construction and repair of roads, sidewalks and bridges, water mains and sewers, and improvements to parking lots, parks, cemeteries, and athletic fields.



## BOARD OF SELECTMEN / PROCUREMENT OFFICER

An exception to the “building” definition above would be a structure used solely for housing water or sewer-related pumps or other equipment.

- M.G.L. c. 149, §27 – Prevailing Wages:

The Town is required to comply with the Massachusetts Prevailing Wage Law for all public works and public building projects, regardless of the cost of the contract (including \$1-\$9,999). Prevailing Wages must be paid to all persons employed on the project, regardless of whether they are employed by the contractor or a sub contractor. The rates issued for a particular project must be paid for that entire project. For multi-year contracts, the CPO will apply for new wage rates as required annually.

The Procurement Officer will assist in the collection and review and retention of Certified Payroll Reports and Statements of Compliance, however, this is ultimately the responsibility of the Department Head and these records should be kept on location. The Procurement Officer will keep these records for seven years after the date of completion for the project.

### 3) THRESHOLDS

- M.G.L. c. 30B – SUPPLIES AND SERVICES:

#### Estimated Cost is Less Than \$10,000

Procurement of supplies and services estimated to cost less than \$10,000\* must be conducted using “sound business practices”, which is defined as checking price lists, seeking quotes, or conducting market research to ensure competitive pricing is received. Sound reasoning may also consist of consideration of quality, experience, or qualifications of a vendor providing the goods or services. Soliciting quotes is encouraged even when the potential purchase is less than \$10,000.

*\*Please note that Town Policy requires the prior approval of the CPO for any purchase over \$5,000. Town Policy also requires the approval of the Accountant for any single item purchase (capital asset) over \$5,000 (see Appendix A to this manual).*

#### Estimated Cost is Between \$10,000 and \$50,000

Procurement of supplies and services estimated to cost between \$10,000 and \$50,000 requires the solicitation of at least three (3) written quotes from potential vendors. Quote requests must be in writing and provided to each potential vendor. Documentation of quotes solicited must be included as an attachment to the Procurement Approval Form.

#### Estimated Cost is Between \$50,000 and \$100,000

Procurement of supplies and services estimated to cost over \$50,000 requires either an Invitation for Bids (IFB) or a Request for Proposals (RFP). An IFB is a price-based process where the lowest eligible and responsible bidder will be awarded the contract. An RFP is a proposal based process where non-price proposals are submitted to a review Committee and ranked according to a list of Comparative Criteria before the accompanying price proposal is reviewed. The RFP process is used when the Owner wishes to select a contractor based on qualifications or experience, rather than price. Before an RFP process can be initiated, a justification for the process must be made in writing and added to the file.



## **BOARD OF SELECTMEN / PROCUREMENT OFFICER**

Procurements made under this section are required to have a notice posted in a newspaper, on COMMBUYS, and posted at Town Hall/Town website for at least two weeks prior to the due date.

### Estimated Cost is Over \$100,000

In addition to the requirements for \$50,000-\$100,000, a procurement where the estimated cost is over \$100,000 must also be posted on the Commonwealth's "Goods and Services Bulletin".

### Real Property (§16)

The acquisition or disposition (rent, lease or sale) of Real Property is subject to 30B. An RFP process is required for any property valued at more than \$35,000. The size of the property also triggers certain advertising requirements. Please consult the Procurement Office when dealing with any type of Real Property transaction.

### Surplus Supplies

To dispose of unwanted or unneeded items, the Department must follow the Procedures for Disposal of Surplus Supplies. Supplies valued at more than \$10,000 must be disposed of using a sealed bid process or public auction. The disposal of supplies valued at less than \$500 does not require the approval of the Procurement Office.

### Sole-Source Procurement

A Sole Source Procurement is one that is conducted without advertising or competition. Any Department that believes they have a sole-source purchase must conduct a reasonable investigation showing there is only one practicable source for the supply or service and submit documentation supporting that determination to the CPO, who will verify the information and submit a Sole Source Procurement Approval Form to the Accountant before a requisition or Purchase Order is approved. Sole Source Procurements must be under \$50,000. If a Department believes a purchase over \$50,000 is a sole-source, a sealed bid process must still be conducted.

- M.G.L. c. 7C, §44-57 – DESIGN SERVICES:

### Estimated Construction Cost of less than \$100,000

There is no formal procurement procedure for a design for which the estimated construction cost will be less than \$100,000, or the design fee will be less than \$10,000. It is always recommended that prices and qualifications from multiple design firms be submitted.

### Estimated Construction Cost of more than \$100,000 and Design Fee of more than \$10,000

Construction projects where the estimated construction cost will be more than \$100,000 and the design fee will cost more than \$10,000 are subject to a qualifications based selection process. The Town's Designer Selection Procedures shall be followed.

Under this type of procurement, the Town must either set a design fee or set a not-to-exceed fee limit and negotiate with the top ranked designer within the fee limit. The CPO will work the Owner to establish the fee or fee limit.



## **BOARD OF SELECTMEN / PROCUREMENT OFFICER**

Procurements made under c. 7C are required to have a notice posted in the Central Register and in a newspaper within general circulation.

OSHA training and Prevailing Wages are also required.

- M.G.L. c. 149, §44A to 44M – PUBLIC BUILDING CONSTRUCTION:

### Estimated Cost is less than \$10,000\*

Procurement of public building construction estimated to cost less than \$10,000 must be conducted using “sound business practices”.

Contracts under this section are subject to the Prevailing Wage Law from dollar one.

### Estimated Cost is Between \$10,000 and \$50,000\*

Procurement of building construction estimated to cost between \$10,000 and \$50,000 requires the solicitation of at least three (3) written quotes from potential contractors. Quote requests must be in written form and well-communicated to each potential vendor. Documentation of quotes solicited must be included in the file.

Procurements made under this section are required to have a notice posted on the Town’s website, on COMMBUYS, in the Central Register and at Town Hall.

OSHA training and Prevailing Wages are required.

\*As a result of the Municipal Modernization Act, building construction procurements under \$50,000 may also be made using a State Contract procured by OSD, or a blanket contract procured by the Town.

### Estimated Cost is Between \$50,000 and \$150,000

Procurement of building construction estimated to cost between \$50,000 and \$150,000 requires a sealed bid process.

Procurements made under this section are required to have a notice posted, for at least two weeks prior to the bidding due date, in a newspaper, on COMMBUYS, in the Central Register and at Town Hall/Town website.

A payment bond of fifty percent (50%) of the total contract price is required.

### Estimated Cost is Over \$150,000

In addition to the requirements above (over \$50K), a building construction project estimated to cost over \$150,000 must include a requirement that the contractor and any sub-contractors be DCAMM certified. A DCAMM update statement (contractor evaluation) must be submitted with the bid. There is also a mandatory evaluation of the contractor to be submitted to DCAMM.

Filed sub-bids are required for any trade (i.e. Electrical, HVAC, Masonry, etc.) within the construction contract where the estimated cost will be more than \$25,000.



## **BOARD OF SELECTMEN / PROCUREMENT OFFICER**

A payment bond of one hundred percent (100%) and a performance bond of one hundred percent (100%) of the contract price are required.

### Estimated Cost is over \$10 Million

In addition to the requirements above (over \$150K), a building construction project estimated to cost over \$10 million must also include a prequalification procedure for both general contractors and filed sub-bidders. This process is required before the actual bidding process can take place; the bidding process is then restricted to only those who have been approved in the prequalification process.

- M.G.L. c. 30, §39M – PUBLIC WORKS CONSTRUCTION:

### Estimated Cost is less than \$10,000\*

Procurement of public works construction estimated to cost less than \$10,000 must be conducted using sound business practices.

Contracts under this section are subject to the Prevailing Wage Law from dollar one.

### Estimated Cost is Between \$10,000 and \$50,000\*

Procurement of public works construction estimated to cost between \$10,000 and \$50,000 requires the solicitation of at least three (3) written quotes from potential contractors. Quote requests must be in written form and well-communicated to each potential vendor. Documentation of quotes solicited must be included in the file.

Procurements made under this section are required to have a notice posted in the Town's website, on COMMBUYS, on the Central Register and posted at Town Hall.

OSHA training and Prevailing Wages are also required.

\*As a result of the Municipal Modernization Act, building construction procurements under \$50,000 may also be made using a State Contract procured by OSD, or a blanket contract procured by the Town.

### Estimated Cost is Over \$50,000

Procurement of public works construction estimated to cost more than \$50,000 requires a sealed bid process.

Procurements made under this section are required to have a notice posted in a newspaper, on COMMBUYS, on the Central Register and posted at Town Hall.

A payment bond of fifty percent (50%) of the total contract price is required.

### c. 90 Funding

MASSDOT prequalification of bidders is required for any contract over \$50,000 if the Town is to receive c. 90 funding for the work.





## BOARD OF SELECTMEN / PROCUREMENT OFFICER

### 4) COLLECTIVE PURCHASING OPPORTUNITIES

- COMMBUYS:

The Commonwealth's Operational Services Division (OSD) procures and awards a number of statewide contracts that are available to municipalities. Departments who wish to procure an item or services from an OSD contract may request to be identified as a user on COMMBUYS, OSD's purchasing portal. Once approved, the COMMBUYS user will have full access to all COMMBUYS contracts and will have the ability to purchase directly through the COMMBUYS portal.

COMMBUYS users will be expected to read the Contract User Guide for the purchase they are attempting to make, and shall comply with all terms of use for said contract. Remember that not all contractors listed on COMMBUYS are included on a State Contract.

Go to [www.commbuys.com](http://www.commbuys.com) to access contract information, training resources and buyer information.

- MHEC:

The Massachusetts Higher Education Consortium (MHEC) is a group purchasing consortium with contracts available to municipalities. Departments who wish to procure items or services from the MHEC contract may do so using the Bid Request process, indicating the MHEC contract number. The Procurement Office will verify eligibility under the MHEC contract and create a purchase order.

Go to [www.mhec.net](http://www.mhec.net) to access contract lists.

- MAPC:

The Metropolitan Area Planning Council (MAPC) has several contracts available to municipalities. Departments who wish to procure items or services from MAPC contracts may do so using the Bid Request process, indicating the title of the MAPC contract. The Procurement Office will verify the eligibility under the MAPC contract and create a purchase order.

Go to [www.mapc.org/collective-procurement](http://www.mapc.org/collective-procurement) for more information.

- GSA:

Government Services Agency contracts are limited in variety, but cover items associated with Homeland Security, telecommunications and disaster response. Departments who wish to procure from GSA contracts may do so using the Bid Request process, indicating the title of the GSA contract. The Procurement Office will verify eligibility under the GSA contract and create a purchase order.

Go to [www.gsa.gov/portal/content/105300](http://www.gsa.gov/portal/content/105300) to access contract information and buyer information.



## **BOARD OF SELECTMEN / PROCUREMENT OFFICER**

### **5) RESPONSIBILITIES**

For all competitive procurements (quotes, bids, proposals), the Chief Procurement Officer and the initiating Department will work cooperatively to prepare the formal solicitation. The following section describes the procedures used by the Procurement Office, and the responsibilities of the initiating Department with respect to preparing, issuing, receiving, awarding and administering the solicitation and subsequent contract.

It should be noted that all contract management functions are the responsibility of the initiating department(s), including issuing a notice to proceed, receipt and review of certified payroll reports, coordination of change orders, closeout and payment procedures and subsequent contract evaluations.

- **DEPARTMENT HEADS/PROJECT OWNERS:**

#### Product Description

For Supplies, the Department should provide sufficient detail for vendors to provide what is requested. Details could include things like dimensions, weight, performance rating, or type of guarantee/warranty. If a description is vague or incomplete, it may result in a supply that is not of the quality or value expected.

For Services, the Department should provide a scope which includes a detailed description of the service or task to be performed. Details should include what the work entails, what qualifications or skills are required of the person(s) doing the work, and what is needed (materials) to accomplish the work.

For Construction, the Department should consult with the Procurement Office about whether professional plans are needed. Most construction projects will require engineer/architect stamped plans or drawings to accompany specifications. The Department must provide, for both vertical and horizontal construction, a highly detailed description of the construction project. Not only should the scope include the specific materials and standards required, it should also include the qualifications required of the contractor. Qualification requirements should indicate how many years' experience the contracting firm should have, what types of projects the contractor should have experience working on to make them qualified to perform the work, and any certifications or licenses that should be retained either by the firm or the individuals performing the work.

#### RFP Justification

If the Department feels that a Request for Proposals best suits their needs, rather than an Invitation for Bids, the Department will provide the CPO with written documentation describing the specific reasons why an RFP process is more beneficial than a bid process.

#### Contract Schedule

The initiating Department should provide a basic timeline of need and/or implementation. Where applicable, the desired length of the contract should be provided. If there are any other terms and conditions not included in the Town's basic terms, the Department should also provide those terms and conditions. Contract terms are limited to three years (including renewals); to go beyond a three year period requires a Town Meeting vote (except certain construction projects).



## **BOARD OF SELECTMEN / PROCUREMENT OFFICER**

### Estimated Value

Since procurement laws are based upon dollar value thresholds, the Department will provide an estimate in order for the CPO to determine the appropriate procedure. This estimate should be provided either by a Department employee experienced in the type of work being asked for, or by a vendor who has been informed of prevailing wage requirements.

### Communication with Vendors/Contractors

The Department is encouraged to provide the Procurement Office with contact information for vendors or contractors who may be interested in solicitations. The Procurement Office will keep a record of these vendors and will include them in relevant solicitations.

### Receipt of Quotes, Bids or Proposals

Unless permission is otherwise granted prior to solicitation, all quotes, bids and proposals are to be sent to the address of the Chief Procurement Officer and will be opened by the Procurement Office.

### Review and Recommendation to Award

If the solicitation was an IFB, the Department Head will be responsible for reviewing the submitted bids and determining if the bidder is responsive (the CPO will determine if the bid itself is responsive). The Department Head should conduct reference checks and whatever reasonable research may be conducted to determine the bidder's reputation and ability to meet the requirements of the contract. The CPO will assist in this process if needed.

If the solicitation was an RFP, the Department Head will designate at least one member to be a part of the evaluation team and will provide assistance to the CPO or Board of Selectmen in determining the other members of the evaluation team.

### Contract Management

The Department Head is responsible for monitoring the progress and performance of any contract for which they are the signatory, including reviewing certified payrolls when connected to a Prevailing Wage project.

All amendments, change orders, or extensions should be initiated by the Department Head and will be approved by the CPO.

Department Heads are responsible for tracking the expiration dates of their contracts. The Department Head will notify the CPO at least 45 days in advance of a contract expiration date in order to facilitate a new contract, if necessary.

Department Heads are responsible for providing a copy of any performance review to the Procurement Office, whenever such review is required by DCAMM.

Department Heads are responsible for received and reviewing certified payroll reports for all projects that are subject to Prevailing Wage Laws. Department Heads should maintain a file for each project which



## **BOARD OF SELECTMEN / PROCUREMENT OFFICER**

contains the certified payrolls; this file is retained for seven (7) years following the completion date of the project. *Invoices should not be paid until certified payroll is received from the contractor.*

- **PROCUREMENT OFFICE:**

### Issuing a Solicitation

The CPO will utilize all the information provided by the Department to prepare a complete solicitation document compliant with applicable Massachusetts General Law. If any additional information is needed from the Department, the CPO will request said information and incorporate it into the solicitation.

The CPO will be in constant communication with the requesting Department. Once a due date is established for the solicitation, the Department will receive a confirmation email including the due date, time and location of the bid opening.

For construction contracts, the CPO will with the Department to establish a date and time for any pre-bid meeting or walk-through, and will provide guidelines for the pre-bid activity.

For all solicitations that include labor, the Procurement Office will request and provide a Prevailing Wage rate sheet from the Massachusetts Department of Labor Standards (DLS) for the solicitation. This is a statutory requirement for contractors performing work on any public construction project, student transportation, some office and furniture moving, and public works transportation.

Should the Department, at any time, be in need of assistance with developing a scope of work or purchase description, the Procurement Office will provide professional assistance to the best of their ability. If possible, the Procurement Office will assist the Department by researching specifications used in other municipalities or similar agencies, and will provide sample documents to the Department.

The CPO is responsible for ensuring that public notice is legally and properly made.

### Distribution of Solicitation

The Procurement Office is responsible for distribution of all solicitations over \$10,000. Should bid documents be provided by an architect/engineer/OPM (Owner's Project Manager), the documents will be provided to the Procurement Officer who will distribute them to the Department Head and project managers as required.

The Procurement Office will maintain a record of all vendors/contractors who have registered to receive the solicitation and will be responsible for return of any documents, bid deposits and plan fees.

The CPO will communicate with the Department Head regarding questions or comments on technical specifications. If necessary, addenda will be prepared and issued to anyone who has registered to receive a solicitation. All questions, concerns and comments on the solicitation should be submitted to the Procurement Office in writing; *Departments will instruct all parties to communicate only with the Procurement Office during the required advertising period for solicitations.*



## **BOARD OF SELECTMEN / PROCUREMENT OFFICER**

### Receiving and Evaluating Responses

Unless permission is otherwise granted prior to solicitation, all quotations, bids and proposals are to be sent to the address of the Procurement Office and will be opened by the CPO.

For an IFB, the CPO will receive all bids, and at the time of the bid opening, will open, read aloud, and prepare a bid tabulation sheet with the results. The CPO will consider each bidder's responsiveness to the submission requirements. Immediately following CPO review, the Department Head will receive bids for evaluation.

For an RFP, the CPO is authorized to create an evaluation committee that has the expertise and ability to evaluate, rank and recommend an award. The CPO will receive all proposals, and at the time of opening will open and prepare a register of proposals. Price proposals will remain unopened at this time. The CPO will then provide the proposals to members of the evaluation committee, including the Department Head. Once the evaluation committee reaches a decision, the CPO will open the price proposals.

### Handling Late Responses

A late bid or proposal is one that is delivered after the due date and time. If a bid or proposal is late, it must be rejected as non-responsive, and as such will be returned unopened to the person submitting the bid or proposal. Should a bid or proposal be received via USPS/UPS/FedEx or any other courier service, it shall be refused upon attempted delivery. If mailed, it shall be returned unopened.

Corrections or modifications to responses are also not accepted beyond the due date and time.

### Deciding Tie Bids

On the rare occasion of a tie-bid, the Town must use the tie-breaking method described in the solicitation. This will usually be inviting both bidders to witness a coin flip.

### Awarding and Executing Contracts

Once the vendor/contractor has been identified as eligible, the CPO will award the contract. There are cases in which the vendor may supply a contract with a quote; if the quote is for the purchase of equipment or a one-time delivery of supplies, it may be acceptable for the Department Head to sign the quote in acceptance and have it serve as the contract. For any sealed bid process, the Town's stated terms and conditions will be applied. The CPO will work with both Department Heads and vendors/contractors to adapt the Town's general agreement to the specific nature of the project. The CPO will also assist the Department Head with a Payment Plan (Exhibit A to the Contract), that will include a timeline for invoicing, as well as a timeframe for the work to be completed.

The first signature on any contract shall be the vendor/contractor's. The vendor/contractor will return the requested number of original copies of the signed agreement to the CPO, along with any other required documents (insurance certificates, bonds, submittals, etc.) Once the CPO has received all the contract documents from the vendor/contractor, it will be provided to the Department Head, and BOS if necessary, for countersigning. The final signature requirement is the Accountant. *There is no circumstance in which a contract is considered valid if it does not have the Accountant's approval.* Once the contract is fully executed, original copies will be distributed to the Accountant, the Department Head, and the vendor/contractor.



## **BOARD OF SELECTMEN / PROCUREMENT OFFICER**

The contracting Department is responsible for issuing the “Notice to Proceed” once they have received the fully executed agreement.

### Contract Database

The Procurement Office will maintain a record of all current contracts and shall make those records available to anyone upon request. The Procurement Office maintains project records for seven (7) years after the date of completion.

### Contract Management

The Town should not be forced to award bids to a problem vendor or contractor. The Procurement Office will keep a written record of any problems, quality issues, complaints, performance issues or other items that may be used to disqualify a vendor or contractor in the future.

The Procurement Office will maintain records of all certified payroll reports that are provided by the contractor or the Department Head. *Please note that while the Procurement Office will maintain records of certified payroll, it is not the responsibility of the CPO to obtain these records from the contractor. The Department Head should confirm they have received complete certified payroll records for any labor inclusive project, prior to remitting the final payment to the contractor.*

The Procurement Office will also keep a record of any performance report that is required by law.

## **6) OTHER PROCESSES**

### ▪ PURCHASES LESS THAN \$10,000

Purchases under \$5,000 may be made without prior approval, *unless the purchase is part of a larger purchase, of which the total value is greater than \$5,000 (see Bid Splitting).*

Purchases between \$5,000 and \$10,000 require the approval of the CPO on a Requisition Approval Form. A single-item purchase over \$5,000 also requires the approval of the Accountant. Purchases under \$10,000 do not require a signed contract, but a record of what is being purchased shall accompany the Requisition Approval Form; this can be an itemized quote, a Purchase Order or an itemized invoice.

Incidental purchases are not meant to circumvent the procurement process. The CPO and Town Accountant’s Office will routinely monitor incidental purchases for compliance with the intent of this section.

Purchases over \$10,000 are initiated by submitting a Bid Request Form to the Procurement Office. The procurement process will be determined by the CPO and the Accountant will approve the requisition of funds for the project. Once the funding has been approved, the appropriate process will be administered. Please see the Town’s Procurement Policies and Procedures for more information.



## **BOARD OF SELECTMEN / PROCUREMENT OFFICER**

- **CHANGE ORDERS, AMENDMENTS, EXTENTIONS**

### Supply and Service Contracts

Chapter 30B allows for an increase in the quantity of a supply or service, as long as the increase does not exceed twenty-five percent (25%) of the total contract price. Unit prices cannot be higher than the original unit prices, and a contract amendment must be signed by the original signatories.

Contracts for the purchase of heating oil, gasoline, fuel oil, and road sand and salt are not subject to the percentage limit but must meet all other requirements stated above.

### Construction Contracts

There is no statutory limit on change orders for construction projects; however, recent case law suggests that change orders should not exceed thirty percent (30%) of the original contract.

The contractor suggesting a change order shall supply the Department Head with a written explanation of the need for a change, including a detailed cost breakdown of the proposed change.

It is the responsibility of the Department Head to ensure that the change order is, in fact, necessary for completion of the project and that the additional work proposed was not included in the existing specifications and contract. The Department Head should also determine if the requested change is accurate and has value to the overall project.

### Amendments

Should a contract amendment be necessary for any reason, the Department Head is responsible for notifying the CPO in writing of the need and the reasons for the amendment. The CPO will prepare and execute the amendment, which will follow the same requirements as the original contract.

Should the contract amendment require additional funding, the Department Head is responsible for securing that funding prior to requesting the information.

Upon final execution of the amendment, the CPO will adjust the associated Purchase Order or Payment Plan accordingly.

### Extensions

A Department Head needing an extension on a contract should submit a written request to the CPO at least 30 days in advance of needing the extension. The CPO will verify the eligibility of the contract for being extended, pursuant to the terms of the existing contract and subject to the applicable General Law. If the extension is warranted a "Notice of Extension" will be prepared and executed by the CPO.

- **EMERGENCY PROCUREMENTS**

### Supplies and Services

The Chief Procurement Officer may approve an emergency procurement when the situation would "endanger the health or safety of the people or property". In an emergency situation, a procurement must comply with the law to the greatest extent possible while attending to the emergency.



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Any Department Head with an emergency procurement must document the situation and submit in writing to the CPO within one business day of the event. The document must contain:

- a. The basis for the emergency procurement
- b. The name(s) of the vendor/contractor used
- c. The dollar amount committed to the emergency
- d. List of supplies and/or services procured

### Building Construction

Prior approval of DCAMM is required on any emergency purchase under the provisions of MGL Chapter 149. The provision states that an emergency is to “preserve the health or safety of persons or property, or to alleviate an imminent security threat”.

Any Department Head with an emergency procurement must document the situation and submit in writing to the CPO immediately in order for a DCAMM waiver to be submitted in a timely manner.

DCAMM approval may waive public notice or bidding requirements for the necessary work. If the nature of the emergency precludes prior approval, the Town may contract for only the work that is absolutely necessary, and seek subsequent approval from DCAMM. Although formal bidding may be waived, the Town should solicit more than one source if at all possible in the time constraint.

Emergency procurements are subject to the Prevailing Wage Law; therefore the CPO will apply for prevailing wages as soon as notification of the emergency work is received.

*Note: If DCAMM denies the Town's request, the work must be stopped immediately.*

It is not legal to use an emergency to justify what would have otherwise been a normal procurement or to artificially create an emergency simply by putting off normal maintenance and repair work. If it was known that a repair was warranted and there was time to correct it using normal bidding procedures, DCAMM will not allow you to justify the use of emergency procedures.

### Public Works Construction

Under the provisions of MGL Chapter 30, 39M, an emergency is defined as “extreme emergency caused by enemy attack, sabotage or other hostile actions or resulting from an imminent security threat, explosion, fire, flood, earthquake, hurricane, tornado or other such catastrophe”.

Any Department Head with an emergency procurement must document the situation and submit in writing to the CPO within one business day of the event in order to create a permanent record of the actions taken. Only work absolutely necessary to temporarily repair and restore service, or to preserve the health and safety of persons or property, is allowed to be performed without a procurement; however, no permanent reconstruction, alteration, remodeling or repair of any public work is allowed.

- TAX EXEMPT STATUS





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The Town is exempt from State taxes when procuring goods and services. Tax exempt forms are available in the Procurement Office by contacting the CPO.

Please remember that the Town's Tax Exempt status may not be used for personal purchases or reimbursable expenses that are paid for out of pocket.

- CREDIT CARD POLICY

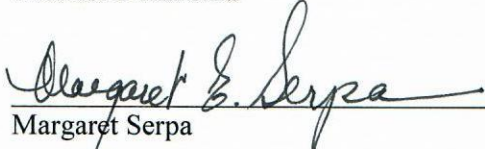
Credit cards may be issued by the Town Administrator to certain departments for incidental purchases (under \$2,000). Please see the Town's Credit Card Policy for additional information.

- BID SPLITTING

Splitting purchases over several weeks or months is considered "bid-splitting" when the appearance is that this is being done to avoid meeting thresholds which require a more complex procurement. Certain unexpected small expenses sometimes make good business sense and not problematic. However, to purposely purchase items over time to stay under procurement thresholds is illegal.

\_\_\_\_\_  
Michael Donaroma

1 Oct 18  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Margaret Serpa

  
\_\_\_\_\_  
Arthur Smadbeck

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