



City of Gardiner, Maine

POLICY ON PURCHASING

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Level: ___ **Divisional**

___ **Departmental**

X **City-Wide**

Policy Statement

This policy establishes a uniform purchasing procedure for the City of Gardiner for any funds to be expended from the General Fund or an Enterprise Fund. The purpose of this procedure is to ensure that the City obtains the best price and value for all expenditures and to discourage favoritism, cronyism, and intentional sole-sourcing. Expenditures from other City fund sources, such as trusts, may utilize this procedure but are not required to do so.

References

City of Gardiner Charter, Article VI, ss 6 (1) - Powers and Duties of the City Manager

City of Gardiner Charter, Article VII, ss 14 - Purchasing of Supplies

City of Gardiner Personnel Policies, Article V, ss A (1-6) - Employee Conduct and Ethics

Policy Definitions

Bid Most Advantageous to the City means not necessarily the lowest bid. In addition to price, the quality of the good and/or service's warranty, speed of delivery, and the demonstrated service record of the Vendor must be considered in determining the Bid Most Advantageous to the City.

Brand-Specific means soliciting a good with the name of a particular brand, such as a Ford F-150 or a Chevrolet S10. In general, Brand-Specific solicitations shall be prohibited. However, an exception can be made if the Department Head determines that purchasing a Brand-Specific good is in the best interest of the City due to compatibility issues with other products of the same brand owned and operated by the City. The City Manager must approve all Brand-Specific Invitations to Bid and Award of Bids.

Business Day means a day on which Gardiner City Hall is open to serve the public.

Competitive Bidding means the process of obtaining Formal Bids from more than one vendor. This process requires that the City specify the product or service it requires. Product/service Specifications should be made broad enough so that multiple vendors are eligible to bid and to limit instances of Sole Sourcing. There are two types of Competitive Bidding: 1) a **Limited Competitive Process** is where the Department Head directly solicits bids from at least three suppliers of the product/service, including all known local suppliers; and 2) a **Full Competitive Process** is where the City publishes notice of an Invitation to Bid and receives Formal Bids from Vendors. Notices shall be made via the City's website, social media, City Hall bulletin board, and direct notification of known suppliers, including all known local suppliers. Two weeks shall be the default time to accept responses from Vendors for all items under \$25,000. Four weeks shall be the default time for items \$25,000 and above. However, these timeframes may be shortened or increased by the City Manager if s/he believes it is in the best interest of the City to do so. In both processes, the Bid Most Advantageous to the City shall be awarded.

Department Head means the duly-appointed head of one of the following City departments: Police, Fire/Ambulance, Public Works, Finance, Planning & Development, Library, Wastewater, and other such City departments that may be created from time to time.

Emergency Purchase means a purchase occasioned by a situation or circumstances that prevented the City from otherwise providing the prevailing level of service to the public. Such purchases should be rare and department inconvenience shall not justify an Emergency Purchase. Examples include but are not limited to a broken snow plow, a crashed computer server, faulty gas meters, etc.

Formal Bid means a written, sealed bid that a Vendor submits to the City as part of the Competitive Bidding process. The City shall publicly advertise for, or otherwise solicit, Formal Bids and the City Manager or his/her designee shall open all submitted Formal Bids in public on the date and at the place and time set forth in the Invitation to Bid materials. The City Manager or designee shall announce the amount and terms of each Formal bid immediately upon opening it.

Invitation to Bid means a formal written request by the City to Vendors based upon a package of materials furnished by the City for the purpose of submitting a Formal Bid. All Vendors shall be provided with identical information and no City employee shall show favor or preference toward, or share information with, any potential Vendor to the exclusion of other potential Vendors.

Lowest Bidder means the Vendor whose response to an Invitation to Bid represents the lowest dollar cost to the City. This does not imply that such a bidder should be awarded a bid nor does it necessarily imply that they are the Lowest Qualified Bidder.

Lowest Qualified Bidder means the Vendor whose response to an Invitation to Bid represents the Bid Most Advantageous to the City. This means the Vendor meets all the requirements and qualifications specified by the City in its Invitation to Bid to provide a good and/or service and whose price is lower than all of the other qualified bidders. In some instances, this may also be the Vendor who is the Lowest Bidder. However, the Lowest Bidder must also meet other criteria to be deemed the Lowest Qualified Bidder. In order to qualify as the Lowest Qualified Bidder, a Vendor must meet all of the requirements and qualifications included in the Invitation to Bid, which can include years of experience, previous work done by the Vendor for the City or other communities, the financial capacity of the Vendor, the availability of the Vendor and/or product, amongst others. All bid awards shall be made to the Lowest Qualified Bidder.

EXAMPLE: Vendor A submits a bid of \$100. Vendor B submits a bid of \$125. Vendor C submits a bid of \$150. And Vendor D submits a bid of \$175. The City determines that although Vendor A is the Lowest Bidder, because the product they offered failed to meet the minimum requirements of the stated bid Specifications, they are NOT the Lowest Qualified Bidder. Although the bid prices from Vendors, B, C, and D were higher than Vendor A, all of their products met the minimum specifications. As such, since Vendor B had the lowest cost of all qualified bidders, Vendor B would be considered the Lowest Qualified Bidder and awarded the bid.

Sole Source(ing) means that only one supplier (source) is capable of delivering the required product or service, to the best of the requestor's knowledge and belief, based upon thorough research. Similar types of goods/services may exist but only one supplier, for reasons of expertise, and/or standardization, quality, compatibility with existing equipment, specifications, or availability, is the lone source that is acceptable to meet a specific need. Price cannot be used as a factor in determining if a sole source exists because it indicates the existence of a competitive marketplace. An item being a "sole brand" or a "sole manufacturer" does not automatically qualify to be a Sole Source. Many manufacturers sell their products through distributors. Therefore, even if a purchase is identified as a valid "sole brand" or "sole manufacturer", the requestor should verify whether the manufacturer has multiple distributors. If the manufacturer does have multiple distributors, a Competitive Bidding process must be utilized.

Sole Sourcing is not to be used to avoid competition. When practicable, all purchases shall be based on Competitive Bidding. Department Heads making requests to Sole Source must do so in writing to the City Manager and provide sufficient justification for their request. Sole Source purchases are contingent upon approval by the City Manager.

Specifications means the standards established by the City to measure and evaluate Vendor compliance with the product and/or service standards established for Formal Bids. Technical specifications shall be commensurate with departmental needs and shall be stated as broadly as possible to permit the participation of a diversity of vendors but specific enough to ensure departmental needs are met. Non-technical specifications shall describe, in general terms, the required quality of goods. The City may rely on the technical advice of suppliers, salesmen, and others to develop Specifications, provided however that such reliance shall not be construed as the City favoring that potential Vendor or agreeing to purchase any supplies.

Vendor means a person, company, or other entity which responds to a City solicitation for goods and/or services or which provides such goods and/or services to the City at an agreed upon price.

Policy Description

The City Charter entrusts the duties of Purchasing Agent to the City Manager. Without limitation, these duties include: administering purchasing policies, maintaining files containing all information regarding City purchase performance, negotiating and approving purchases requested by City departments, consolidating purchases of like or common items, and continually evaluating the purchasing process. Individual Department Heads are charged with determining what goods and services are necessary for the provision of services within their purview, along with the Specifications for any necessary goods and services. The City Manager shall retain final authority on the issuance of Invitations to Bid and Awarding of Bids.

For the purpose of this policy, purchases will be classified into three categories:

- Small Purchases of under \$5,000
- Medium Purchases of between \$5,000 and \$24,999
- Large Purchases of \$25,000 or more

These amounts include one-time payments (ex. purchase of a computer) as well as cumulative payments within a fiscal year (ex. hiring an electrician for various jobs at City facilities). *For example, although a service Vendor may only be paid \$500 for each job s/he performs, if s/he is paid this amount several times during the fiscal year for a total of \$5,000 his/her service must be procured utilizing the method in the "Medium purchases" category.*

For multi-year contracts for service, it is the annual cost during a fiscal year that is subject to the above classifications, not the cumulative amount. *For example, if the City enters into a three-year contract with a vendor for IT services and the total is a fixed \$4,999 per year (\$14,997 total), this purchase falls into the "Small Purchases" category.*

Small Purchases (under \$5,000)

Expenditures up to \$4,999 can be made by individual department heads without prior approval from the City Manager. Although not required, departments are strongly encouraged to obtain a minimum of three (3) quotes to ensure the best price is secured for the City. The City Manager and/or Finance Director will perform periodic review of transactions under \$5,000 to ensure best prices are being obtained.

Medium Purchases (\$5,000 to \$24,999)

Expenditures of between \$5,000 and \$24,999 require a Competitive Process, via either the Limited Competitive or Full Competitive process. Unless otherwise directed, Department Heads are authorized to decide which process will be employed. Factors to consider when determined which process is appropriate shall include:

- The project overall cost
- The general availability of the product or service
- The likely savings differential as weighed against the additional costs as required by the process
- The emergency or routine nature of the need

The City Manager retains the right to require a Department Head to utilize the Full Competitive process. The City Manager must approve both the Invitation to Bid and the resulting Award of Bid prior to any purchase and must be provided with either the quotes obtained or the responses obtained from the Invitation to Bid.

Large Purchases (\$25,000 or more)

Any expenditure of \$25,000 or more must be procured by the Full Competitive process, unless the expenditure is a product of an open-end bid for commodities or is included as one of the exceptions to the required Competitive Bidding process. The only exceptions are Emergency Purchases, Sole Source items, and Brand-Specific items, all of which must be approved by the City Manager.

Bid Documents and Specifications

All competitive bid processes shall utilize the attached competitive bid template, unless another form is required by an outside entity, such as the state or federal government, or if waived by the City Manager.

Award of Bids

Bids for goods and services that have been previously authorized or budgeted will be awarded by the City Manager. Bids that are deemed Most Advantageous to the City shall be awarded to the Lowest Qualified Bidder.

In cases where only one bid is received or an award is made to a vendor other than the Lowest Bidder, the City Manager shall report the circumstances to the City Council. Invitations to Bid for goods and services not budgeted for shall require City Council approval. A contract is required for all goods and services purchased by the City in excess of \$7,500.

Local Preference

Unless prohibited by a State or federal funding source for the purchase concerned, a local preference shall be given to any bidder whose business is located and operating within the City limits of Gardiner. This preference shall be given only if City staff (or City Council when required) deems that all of the other items contained within the bid/proposal/quote as significantly equivalent. This local preference shall be based on the following sliding scale:

Bids under \$5,000:	10%
Bids from \$5,000 to \$24,999:	7.5%
Bids from \$25,000 to \$49,999:	5%
Bids over \$50,000:	2.5% (Not to exceed \$5,000.00)

Location and operation shall be defined as owning, leasing, or renting physical space within the City limits and staffing the same at least twenty (20) hours per week. The City Council reserves the right to adjust or suspend this percentage for any purchase. Any adjustment to or suspension of the local preference under this section shall be announced in the City’s Invitation to Bid or at a pre-bid conference.

Right to Reject

The City of Gardiner reserves the right to accept or reject any or all bids for any reason whatsoever and to accept alternatives to the bid specifications whenever the City in its sole and absolute discretion deem it in the best interests of the City to do so.

Emergency Purchases

Emergency Purchases shall be exempt from Competitive Bidding, provided a written explanation to the City Manager within 10 business days after the purchase is made.

Miscellaneous Provisions and Information

Gifts and Gratuities

Officers and employees of the City are expressly prohibited from accepting from any person, firm, corporation, or organization, any rebate or gift that would directly affect the purchase of goods and services for the City, or that could be perceived to affect the purchase of goods and services for the City.

Cooperative Purchasing

The City Manager or his/her designee shall have the authority to join other units or government (federal, state, county, municipal subdivisions, including quasi-municipal agencies) in cooperative purchasing plans when the best interest of the City would serve thereby and such action is in accordance with and pursuant to all applicable laws.

Changes to Contracts

After a purchase is awarded, there may be desired changes to the original cost and/or terms. A Change Order must be communicated to the City Manager and Finance Department, who will contact the vendor and, upon approval by the City Manager, issue a change to the original contract.

A change of contract can be in one of the two forms:

1. A change to a contract can be made with an amendment, drafted by Legal. The Finance Department should be informed of any amendments to be made. The City Manager must endorse all contract amendments.
2. A change to a construction contract can be made with a change order. All change orders also must be endorsed by the City Manager.

Approvals should be obtained before work is actually done. In instances of public or employee safety, written approval can be obtained after the fact. For any other instances where prior approval may not be possible, communications must be made with the Finance Department, and appropriate approval must be obtained immediately after the fact.

Violations of Purchasing Policy

Any violations of this purchasing policy will be communicated to the City Manager, Department Head, Finance Director, and the violating Employee. Such violations shall be grounds for employee discipline, up to and including termination of employment with the City.