

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Chapter 98

Purchasing and Contracts

[HISTORY: Adopted by the Town Council of the Town of Hudson as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Costs for visits — See Ch. 141.

Article I

General Purchasing Regulations

[Adopted under Article 5.14 of the Charter of the Town of Hudson, continued by motion of the Board of Selectmen 7-1-1992; amended 2-23-1993; 3-3-1999; 10-28-2003; 07-25-2023 by the Board of Selectmen.]

§ 98-1 Policy stated.

It shall be the policy of the Town of Hudson, New Hampshire, as adopted by the Board of Selectmen that:

- A. The Administrative Code shall establish purchasing and contract procedures, including the assignment of all responsibilities for such purchases, to the Board or Selectman or its designee, or such purchasing agent as established by the legislative body, and the combination purchasing of similar articles by different departments.
- B. The Board of Selectman (BOS) shall establish from time to time dollar limits for purchases and contracts, which must be by competitive bid, and shall establish the bidding procedures. No competitive bids shall be required when purchasing through the State of New Hampshire bid prices.
- C. Requirements for bids may be waived in specific instances by a majority vote of the BOS in attendance at a duly advertised meeting. The BOS shall establish dollar amounts for purchases or contracts, beyond which no purchase shall be made or contracts entered into without the affirmative vote of a majority of the BOS in attendance at a duly advertised meeting. Once the BOS has voted to make a purchase or enter into a contract, the Chairman shall carry out the vote of the BOS and enter into such transaction on behalf of the Town.
- D. The purchase of, or the contract for the provision of, all materials, supplies, and contractual services utilized by any agency of the Town of Hudson shall be pursued in accordance with the provisions of this article and other such rules and regulations, as may be promulgated by the Finance Director with the approval of the Board of Selectmen.
- E. In no instance shall such rules and regulations promulgated by the Finance Director, with the approval of the BOS, contradict any provision of this article. The provisions of these rules do not apply to the acquisition or disposition of real property or improvements, nor does it apply to appurtenant structures valued over \$10,000.

§ 98-2 Purchasing agent.

The Finance Director of the Town shall serve as the Board of Selectmen's designee as Purchasing Agent.

§ 98-3 Powers and duties of the purchasing agent.

The Finance Director shall direct the operation of the Town's purchasing system as follows:

- A. With the approval of the BOS, the Finance Director shall establish, and amend when necessary, all rules and regulations allowed by this article and necessary to the effective operation of the purchasing system.
- B. The Finance Director shall approve and/or negotiate all purchases and contracts made by the Town. All such approvals or negotiations are subject to the review and/or approval of the BOS unless otherwise provided for in this article.
- C. The Finance Director shall prescribe and maintain such forms as he/she shall find reasonable and necessary to fulfill the purpose of this article.
- D. The Finance Director shall prepare and adopt a standard purchasing nomenclature for using agencies and suppliers.
- E. When deemed necessary or desirable, the Finance Director shall combine requirements of using agencies to effect delivery, unit cost or other procurement factors that are in the best interests of the Town.
- F. When deemed necessary or desirable, the Finance Director, with the approval of the BOS, shall have the authority to join with other units of government in cooperative purchasing plans to effect delivery, unit cost or other procurement factors that are in the best interests of the Town.
- G. With the approval of the BOS, the Finance Director shall implement the conditions and terms under which services, materials, and supplies may be acquired from federal, state, school, and other government agencies or associated organizations and to negotiate the prices of such purchases.
- H. The Finance Director shall maintain such stores of materials and supplies as he/she deems necessary to support the individual and/or aggregate requirements of the using agencies. The distribution of items from such stores shall be executed only upon the approval of the Finance Director according to rules and regulations promulgated by the Finance Director.
- I. With the approval of the BOS and in cooperation with using agencies, the Finance Director may declare any operating equipment, materials and supplies surplus. After reasonable public notice, the Finance Director, with the approval of the BOS, may dispose of any item declared to be surplus in a manner that encourages the most desirable financial arrangement for the Town and provides for equal opportunity for participation by the public.

§ 98-4 Conflict of interest.

Any purchase order or contract within the purview of this article in which the Finance Director, or any officer or employee of the Town, is financially interested directly or indirectly shall be void; except that, before the execution of a purchase order or contract, the BOS shall have the authority to waive compliance with this provision when it finds such action to be in the best interest of the Town.

§ 98-5 Selectmen action required for purchases and contracts over ~~\$25,000~~ \$50,000.

- A. A majority vote of the Board of Selectmen in attendance at a duly advertised meeting is required to approve any purchases or contracts of ~~\$25,000~~ \$50,000 or more. In support of the consideration of such action, the Finance Director must provide the following information:
 - (1) The department or project budget to which the purchase or contract would be charged;
 - (2) Confirmation that the budget impact of the proposed purchase or contract does not give rise to the Town authorizing an appropriation not budgeted at the annual budget, unless voted by a majority of the BOS

after a public hearing, conducted by the BOS, held to discuss an appropriation transfer, and/or that no money shall be drawn from the Treasury of the Town, nor shall any obligation for the expenditure of money be incurred except pursuant to a budget appropriation.

- (3) Confirmation that advertising and competitive bidding procedures were followed as provided for in Subsection **A(4)** below.
 - (4) A recommendation for award of purchase or contract to the lowest bidder in accordance with the best interest of the Town.
- B. The BOS may reject any or all bids on the recommendation of the Finance Director or for other stated cause. Upon approval by the BOS for a purchase or contact of ~~\$25,000~~ **\$50,000** or more, the Chairman is authorized to execute such contractual instruments as may be required to complete the transaction.

§ 98-6 Rules and regulations for purchases and contacts under ~~\$25,000~~ **\$50,000.**

- A. For purchases and contracts less than ~~\$25,000~~ **\$50,000**, the Finance Director shall establish rules and regulations that assure the following:
- (1) Competition;
 - (2) Equal opportunity as required by applicable federal, state, and Town laws;
 - (3) Contractual protection of the Town;
 - (4) Award of purchases and contacts to the lowest bidder in accordance with the best interest of the Town; and
 - (5) Compliance with the provisions of **§ 98-5A(2)**.
- B. Approval requirements. The Board of Selectmen shall from time to time establish the approval requirements for all purchases and contracts less than ~~\$25,000~~ **\$50,000**.

§ 98-7 Bidding procedures.

For all planned purchases and contracts of goods and services estimated to total ~~\$10,000~~ **\$20,000** or more, the following shall be required.

- A. A description in the form of specifications, proposed scope of services, or other such documentation shall be developed that allows prospective bidders to make a responsive bid in accordance with the best interests of the Town. Such specifications, proposed scope of services or other such documentation shall be reviewed for compliance with all relevant Town policies and procedures by the Finance Director, and by the Town Administrator for all purchases and contracts estimated to total ~~\$25,000~~ **\$50,000** or more.
- B. Solicitation of bids. Bids shall be solicited as follows:
- (1) At least four qualified bidders shall receive direct solicitations in writing to bid on the basis of documentation as described in **§ 98-7A**. If fewer than four qualified bidders are solicited to bid, the reasons shall be documented and placed in the files of the Town. Such solicitations shall be mailed at least 14 days prior to the bid opening date as described below.
 - (2) The Town's desire to receive bids shall be published in at least one general circulation news publication that serves the Nashua Standard Metropolitan Statistical Area. Such advertisement shall briefly describe the service, material, supply, or equipment to be purchased, the method of obtaining the complete description of the desired service, material, supply, or equipment, the form in which the bid is to be delivered to the Town, the time, date and location of receipt of the bid, and the time, date, and location

for opening and announcement of bids. Such advertisement shall appear at least 14 calendar days before the planned date of receipt of bids.

- (3) All departments shall complete the Request for Proposal/Bid Checklist, which will be submitted and filed with the bid award package.
- C. Determination of successful bidder. For any purchase or contact of ~~\$25,000~~ \$50,000 or more, the Finance Director shall submit a recommendation to the Board of Selectmen, as described in § 98-5, no more than 30 days after the opening and/or announcement of bids. For purchases of ~~\$10,000~~ \$20,000 but less than ~~\$25,000~~ \$50,000, the Finance Director shall submit a recommendation for approval by a majority of the BOS.
- D. Disqualified bidders. The Town of Hudson BOS shall review and consider the past course of dealings that the municipality has had, if any, with a prospective bidder, respondent, contractor, or employee in evaluating a response to any Town solicitation for bids, proposals, work, or employment.

§ 98-8 Contracting authority.

- A. Subject to other provisions of this article and consistent with other applicable provisions of the laws of the state of New Hampshire and the Town of Hudson, the BOS is authorized to execute such contractual instruments as may be required to complete the purchase of any operating equipment, material, supply, service, or improvement to real property on behalf of all agencies of the Town of Hudson.
- B. The BOS may assign contracting authority, i.e., signature privilege, to the Chairman of the Planning Board for Land Use Fees called "Agency Fees," listed as 1260, 1270, and other land use fees that may be agreed to by the Planning Board and with the signature of the developer to pay for 100% of any improvement, without Town matching funds, connected with any Planning Board approved development. All purchases of goods and/or services must comply with all of the policies and regulations of the Town of Hudson and this Purchasing Policy. No expenditure of Agency Fee monies that would hold the Town of Hudson liable for reimbursement or matching funds, and therefore impact the tax rate for the Town of Hudson, may be made without the express authorization of the Board of Selectmen in compliance with this Purchasing Policy.
- C. Each land use board may accept and use gifts, grants, or contributions for the exercise of its functions, in accordance with the purchasing policy procedures established herein.

Article II (Reserved)

§ 98-9 through § 98-12. (Reserved)

Article III Sand, Gravel, Stone and Bituminous Products

[Adopted 4-23-1991 by Res. No. R91-26]

§ 98-10 Contract for purchases; procedure.

After the effective date of this article, all purchases of sand, gravel, stone and bituminous products shall be contracted for at the beginning of each year for a one-year period only via the sealed bid procedure known as a "purchase agreement," which shall be drafted by the Town Legal Officer. This article shall become effective 30 days after passage, as follows:

- A. Year No. 1 shall begin 30 days after passage and continue through June 30, 1992.
- B. Year No. 2 shall begin on July 1, 1992, and continue through June 30, 1993.

- C. All future years shall begin on July 1 and end on June 30 of the following year.
- D. At least five bidders shall be sent invitations for sealed bids. If fewer than three bids are received, a permanent record of that bid process shall be filed in the Administrative Office of Hudson, with a copy to each Selectman.
- E. Sealed bid procedure shall follow all current and future rules of procurement now in force in the state statutes.
- F. All awards shall be made after review and approval of the Board of Selectmen, by resolution, duly adopted.

§ 98-11 Exceptions.

Only in rare and unusual cases shall this article be violated (i.e., violent acts of nature, which would result in an immediate safety health hazard to residents).

Agenda
7-25-23



TOWN OF HUDSON
Office of the Town Administrator
12 School Street
Hudson, New Hampshire 03051

Stephen A. Malizia, Town Administrator – smalizia@hudsonnh.gov – Tel: 603-886-6024 Fax: 603-598-6481

8E

To: Board of Selectmen

From: Steve Malizia, Town Administrator

Date: July 12, 2023

Re: Updating Limits for Purchase, Contracts, Bids, under Town Code Chapters 98-5, 98-6 and 98-7

At their meeting on July 11, 2023 the Board of Selectmen held a Public Hearing to take public comment on an amendments to Town Code Chapters 98-5, 98-6 and 98-7, Purchasing and Contracts. The amendments would increase the limits stated in the chapters from \$10,000 to \$20,000 and \$25,000 to \$50,000. Should the Board of Selectmen vote to amend the Town Code Chapters 98-5, *Selectmen action required for purchases and contracts over \$25,000*, 98-6, *Rules and regulations for purchases and contracts under \$25,000* and 98-7, *Bidding procedures*, the following motion would be appropriate.

Motion: To amend Town Code Chapters 98-5, Selectmen action required for purchase and contracts over \$25,000, 98-6, Rules and regulations for purchases on contracts under \$25,000 and 98-7, Bidding Procedures, by increasing the limits stated in the Chapter from \$10,000 to \$20,000 and from \$25,000 to \$50,000 and by adding 98-7 B (3) All departments shall complete the "Request for Proposal/Bid Checklist" which will be submitted and filed with the bid award package.

Should you have any questions or need additional information, please feel free to contact me. Thank you.

Selectman Dumont made a motion, seconded by Selectman Morin to amend Town Code Chapters 98-5, Selectmen action required for purchase and contracts over \$25,000, 98-6, Rules and regulations for purchases on contracts under \$25,000 and 98-7, Bidding Procedures, by increasing the limits stated in the Chapter from \$10,000 to \$20,000 and from \$25,000 to \$50,000 and by adding Chapter 98-7 B (3) All departments shall complete the "Request for Proposal/Bid Checklist" which will be submitted and filed with the bid award package. A roll call vote was taken. Carried 5-0.

cc: Finance