

Purchasing Policy



The Mayor & Council of Middletown
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Town of Middletown Policy Library: Policy 1.3.1
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Responsible Office: Purchasing Manager
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RELATED DOCUMENTS:

Town of Middletown Personnel Policy Manual
Town of Middletown Purchasing Card Policy
Town of Middletown Purchasing Process Flow Guidelines
Town of Middletown New Vendor Form
State Bureau of Archives Retention Schedule

I. The Purpose

The purpose of this purchasing policy is to establish the authority, limits and procedures relating to the acquisition of materials, supplies, vehicles, equipment, construction projects, contracts and professional services. This Policy applies to all purchases made with local funds derived from the Town of Middletown General Fund, Electric Fund, Water Fund, Wastewater Fund, Capital Fund, and any other internally generated funding source. This Policy does not apply to purchases made with Federal or State of Delaware funding sources. The Town must strictly adhere to applicable federal and state laws related to the expenditure of federal and state funds, including accounting and audit requirements.

II. Ethics in Purchasing



- A.** Acceptance of any gift items or any free services for personal use is PROHIBITED, and all employees and appointed officials must not become obligated to any supplier/firm and shall not conduct any Town purchasing transactions from which they may personally benefit. All Town of Middletown departments involved in the purchasing process must refrain from any activities that would constitute or lead to a conflict of interest with a supplier or contractor. Please consult your supervisor or the Town of Middletown Personnel Policy Manual with questions about conflicts of interest.
- B.** While purchasing goods and services for the Town, the procedures and guidelines which are described in this purchasing policy are to be strictly followed. All purchasing related records must be kept in the Purchasing Department for the period prescribed in the State Bureau of Archives Retention Schedule. These records may include, but are not limited to, requests for proposal, vendor proposals, analysis of proposals, change orders, and copies of purchase order(s).
- C.** The Information Technology Department is to provide a technical review of all specifications for computer software and hardware purchases regardless of cost. The applicable Information Technology personnel should be consulted on all bid evaluations for hardware, software or other related technology or information systems equipment.
- D.** No agreement or contract shall be entered into, nor expense incurred by any department, which will result in an obligation in excess of the total annual appropriation made to the department. For revenue generating departments, the total annual appropriation may grow directly with the positive variance to the revenue budget. It is the department's responsibility to see that funds are coded to the proper general ledger accounts before obligating or expending funds. Override of funds availability must be approved by the Finance Manager, Town Manager, or a member of Mayor & Council.

III. General Provisions

Multiple Purchase Orders

Multiple purchase orders issued by a department for the same items during the same time frame in an attempt to negate the purchasing



policy restrictions will be considered a clear violation of the purchasing policy.

Vendor References

Vendor references may be checked to verify the bidder's ability to perform the contract requirements, the quality of work and the ability to meet obligations in case of non-fulfillment of the contract.

Standard Forms

All purchasing related forms and bid documents are developed and standardized for the Town of Middletown by the Purchasing Department. No substitutions of the Town of Middletown purchase order form or other standardized forms will be permitted.

Right to Reject

The Town of Middletown shall have the right to reject any or all bids if deemed to be in the best interest of the Town.

Compliance with the Laws

All bids submitted to the Town of Middletown shall be such as to comply with the applicable local, state and federal requirements.

Subdividing the Purchases

The Town of Middletown shall not subdivide purchases or contracts to avoid the requirements of this purchasing policy. Any employee in any department found to be in violation of this policy will be subject to disciplinary action up to and including dismissal.

Inspection and Full Payment

Upon receiving materials and equipment and upon completion of construction, the Town of Middletown shall cause a detailed inspection. Full payments for the purchases will be made only upon the department supervisor's complete satisfaction as to the fulfillment of all the conditions of the contract. The department supervisor will notify the Purchasing department that the purchase order may be released for payment.



Warranties

The department requesting the material or service shall monitor and maintain all warranties.

State Contracts

When it is advantageous and possible to obtain an item through the State contract, the purchaser will use the State contracted firm for the purchase.

Authorized Personnel

Only authorized personnel are permitted to purchase goods for the Town of Middletown. The authorized signature must appear on the purchase order. The authorized signature must be on record in the Administration offices, the Purchasing Manager's office, or electronically archived on a shared drive backed up by the IT Department. All receipts for purchases made with a procurement card must be forwarded to the Accounts Payable Department for processing.

Pre-Qualifying Bidders

The Town reserves the right to pre-qualify bidders. This pre-qualification does not prohibit the Town from determining, in its sole opinion, the most suitable bid for a particular product, service or project.

Preparing Specifications

The department requesting the purchases through the Purchasing Department will prepare the complete specifications and submit them to the Purchasing Department.

IV. Purchasing Authority and Guidelines for Materials, Supplies, Vehicles, and Capital Equipment

This section outlines the purchasing limits and guidelines for materials, supplies, vehicles, and capital equipment based on the purchase amount.

For the purpose of this policy, the purchase amount is considered the purchase order line item or total purchase order amount. Warehouse



stock must be reduced to the item's reorder level prior to using open market purchases as authorized by this policy. Warehouse stock purchases may be made before a stock item is reduced to reorder level in the event that below-market pricing is available or a special need arises, such as hedging against extended lead times, hedging against price increases, stockpiling for a project, or meeting a seasonal requirement. The Purchasing Manager must document all exceptions to this paragraph that result in stock purchases of \$1,000 or more. Reorder level ("min-max") changes must be documented by the Purchasing Manager.

A. Purchases for \$10,000 or Less

Purchases for \$10,000 or less must be authorized by the department supervisor. Such purchases may be made with a purchasing card (up to \$1,000 transactional limit and \$5,000 monthly limit) or with a purchase order issued by the Purchasing Manager. Please see the Purchasing Process Flow diagram for purchase order issuance guidelines.

B. Purchases greater than \$10,000

All purchases with an estimated value of \$10,001 or more must be made by the Purchasing Department through written quotations from vendors. The department supervisor must provide information to the Purchasing Department to assist in the purchase, consisting of required product or service specifications, at a minimum. The department supervisor may also supply bids, requests for bids, quotes, proposals, drawings, plans, preferred vendors, and other information to further assist in the purchase. At least three (3) potential vendors must be evaluated in the purchasing process. If fewer than three (3) vendors are evaluated, justification must be documented.

The lowest and/or most responsive quotation will be accepted, but alternate vendor quotations may be accepted on the basis of payment terms, vendor references, and/or previous experiences with vendor service, quality, or other subjective factors. Exceptions to the lowest quotation provision must be documented by the supervisor or manager authorizing the alternate vendor quotation.

After quotations are received and evaluated by the Purchasing Department, purchase orders over \$10,000 require the approval of the Finance Manager, Town Manager, or a member of Mayor & Council. Fax,



e-mail, and other forms of electronic or web-based quotations are acceptable for this category.

Item numbers, quantities, unit cost and extensions must be completed on every purchase order when purchasing materials or paying for contracted labor at hourly rates.

The Town of Middletown is permitted to use state, county, municipal and other government or private company contracts to purchase material once it has been determined that the procedures outlined within this policy will not be violated. Any deviation from this policy for the purpose of cooperative purchasing must be approved by the Town Manager prior to entering into any purchase agreement.

When purchasing equipment or materials for which a trade-in is being offered, the evaluation criteria must be provided to the Purchasing Department by the requester. Following determination of product acceptability, if any is required, bids will be evaluated to determine which bidder offers the lowest net cost to the Town in accordance with the evaluation criteria set forth in the invitation for bids.

For asset accounting purposes, the full purchase price, not including any trade-in value, must be entered on the purchase order. Any trade-in allowance must be added to the purchase order as a negative item. If a temporary funds override is required, it must be approved in advance in accordance with Section II-D of this policy.

V. Purchasing Authority and Guidelines for Construction and Professional Services Contracts

This section outlines the purchasing limits and guidelines for construction and professional services contracts.

For the purpose of this policy, the purchase amount is considered the total value of the final quotations, bids, and contract amounts from all vendors, suppliers, and contractors contributing to the project. Purchases of supplies, materials, vehicles, and equipment made directly by the Town for any project are governed by Section IV of this policy.

Examples of the professional services covered under this section include architectural and professional engineering, professional land surveying, landscape architectural services, geological studies and services, utility



and tax rate designs and studies, management studies, actuarial studies, accounting and auditing services, financial services and computer related consulting.

The scope of the provisions of this section is not limited to these examples.

A. Projects and Contracts valued at \$50,000 or Less

Contracts and projects having an estimated value of \$50,000 or less shall not require Mayor and Town Council approval when the projects have been approved in the current fiscal year budget. However, the Town Manager or Finance Manager shall sign all quotations, bids, and contracts for construction projects and professional services in this category. Each construction contract must include an indemnification agreement signed by the vendor(s) and a current insurance certificate providing evidence of insurance coverage pursuant to Town of Middletown requirements.

Purchases must be made by the Purchasing Department through written quotations from vendors. The department supervisor must provide information to the Purchasing Department to assist in the purchase, consisting of required product or service specifications, at a minimum. The department supervisor may also supply bids, requests for bids, quotes, proposals, drawings, plans, preferred vendors, agreed upon procedures, and other information to further assist in the purchase. At least three (3) potential vendors must be evaluated in the purchasing process. If fewer than three (3) vendors are evaluated, justification must be documented.

The lowest and/or most responsive quotation will be accepted, but alternate vendor quotations may be accepted on the basis of payment terms, vendor references, and/or previous experiences with vendor service, quality, or other subjective factors. Exceptions to the lowest quotation provision must be documented by the supervisor or manager authorizing the alternate vendor quotation.

Fax, e-mail, and other forms of electronic or web-based quotations are acceptable for this category.

Item numbers, quantities, unit cost and extensions must be completed on every purchase order when purchasing materials or paying for contracted labor at hourly rates.



Change Orders

If, after a contract is awarded, it becomes necessary to add items/work because of unforeseen findings or a scheduled change, a change order can be issued as follows:

1. The justification, dollar amount, and revised scope of work for all change orders must be documented by a department supervisor, Finance Manager, or Town Manager.
2. All change orders must be approved by a department supervisor, Finance Manager, or Town Manager.

B. Projects and Contracts valued greater than \$50,000

All contracts and projects having an estimated value greater than \$50,000 shall be made by the Purchasing Department after completing a bidding process. The department supervisor or manager must provide information to the Purchasing Department to assist in the bidding process, consisting of required product or service specifications, at a minimum. The department may also supply bids, requests for bids, quotes, proposals, drawings, plans, preferred vendors, agreed upon procedures, and other information to further assist in the purchase. At least three (3) potential vendors must be evaluated in the bidding process. If fewer than three (3) vendors are evaluated, justification must be documented.

The bidding process may be open to the public or by invitation among a select group of prequalified bidders. For purchases made through a public bidding process, bid opening notices must be advertised at least once in a local newspaper ten (10) calendar days in advance of the bid opening. It is in the best interest of the Town of Middletown to receive numerous bid proposals. Additional advertising may be undertaken at the discretion of the purchaser. All bids shall be sealed bids.

All bids are to be delivered to the Office of the Town Manager, 19 West Green Street, Middletown, Delaware, 19709. All bids will be opened in the presence of the Town Manager or his/her designee. All bids shall become public record and shall be available for public inspection after it has been determined that there is no proprietary information within the



bids. Any proprietary information or information considered to negatively impact the Town's negotiating capacity may be redacted prior to public inspection. Copies of bids, requests for bids, documentation of accepted and unaccepted bids, and contracts shall be maintained and be made available for public inspection pursuant to the laws of the State of Delaware.

The lowest and/or most responsive bid will be accepted, but alternate bids may be accepted on the basis of payment terms, vendor references, and/or previous experiences with vendor service, quality, or other subjective factors.

All contracts in this category shall be executed by the Mayor upon approval by Council at a public meeting of the Mayor & Council.

Faxed, e-mailed, and other electronically formatted bids are not acceptable for this category.

Bid Bond

A bid bond or certified check in the amount equivalent to ten percent (10%) of the bid amount may be required with each bid for construction work, materials, supplies, or equipment. The Bond requirement shall be determined by the Town Manager or Financial Manager and shall be disclosed in the bid specifications.

The check or bid bond of the bidder to whom the contract is awarded will be forfeited to the Town of Middletown as liquidated damages in the event that the contract and performance bond are not executed within fifteen (15) business days after receiving official notification of award.

Performance Bond

A performance bond may be required from the successful bidder for a construction contract. Such a bond shall be for the full amount of the contract. If the contractor fails to provide such a bond or a binder within fifteen (15) business days of the award of the contract, the award of the contract or the contract shall be void.

Other insurance or bonds as required by Town, State and/or Federal regulations shall be furnished by the contractor.



The amounts and the types of the bonds and insurance required shall be disclosed in the bid specifications.

The bond shall be released by the Town of Middletown upon successful completion of the contract and upon a detailed inspection of the contracted work.

Retainage

All construction contractors and vendors may be subject to a retainage in the amount of ten percent (10%) of the value of the contract. Upon substantial completion of the project, retainage shall be reduced to five percent (5%) of the value of the contract. "Substantial completion" refers to the point in time that the Town of Middletown Inspection department generates a final punch list of outstanding items to be completed by the contractor in a satisfactory manner to render the project absolutely complete. Upon successful completion of the punch list, subject to inspection by the Town of Middletown, the project will be considered absolutely complete and the retainage shall be eliminated.

Change Orders

If, after a contract is awarded, it becomes necessary to add items/work because of unforeseen findings or a scheduled change, a change order can be issued as follows:

- A. All change orders must be documented pursuant to the instructions outlined in the contract.
- B. All change orders must be approved by the Town Manager.

VI. EXCEPTIONS

A. Blanket Orders

Items placed on blanket order for warehouse stock shall not be subject to the Mayor and Town Council approval as these items are purchased as individual units and not in blocks.

B. Negotiations



In a purchasing situation where negotiations are involved with the vendor(s), the provisions of this policy may not apply. Notwithstanding the above, negotiated contracts having a value greater than \$50,000 must be approved by the Mayor and Town Council.

C. Used Materials Equipment

For the purchase of used or surplus materials or equipment, the provisions of this policy may not apply. Purchases over \$50,000 must be presented to Mayor and Town Council for their approval.

D. Items Required by the Town of Middletown Charter

The procurement process to acquire the services required to conduct an annual independent financial audit of the Town of Middletown is exempt from the provisions of this policy. Any legal fees or retainers required to secure the uninterrupted services of the Town Solicitor are exempt from the provisions of this policy.

E. Continuity of Service

When, because of a breakdown or accident, it is necessary to obtain materials or equipment to continue service to the citizens, the provisions of this policy may be waived by the Town Manager.

F. Emergency

In situations of emergency, acts of God, strikes and the like, the rules of this policy may not apply. The Mayor or Town Manager will be responsible for making a decision as to the existence of the emergency.

H. Local Vendor Preference

Local vendor preference may be considered for all purchases of materials, supplies, vehicles, and equipment. The term local vendor is defined as a gradually increasing range with preference assigned as follows:

Rule 1: Vendor located within the Town limits of the Town of Middletown



Rule 2: Vendor located within New Castle County (if no vendor qualifies under Rule 1).

Rule 3: Vendor located within the State of Delaware (if no vendor qualifies under Rules 1 & 2).

VII. RECEIVING

With the exception of the receiving staff, no employee shall pick up or receive goods without his or her supervisor's authorization. In the case of a special project, deliveries may be made to a job site or other alternate location, but delivery and receipt should be coordinated through the Purchasing Department. All receiving documents must be distributed to the Purchasing Department in a timely fashion.

Any employee accepting an item may sign any one of the following documents: Receiving/payment copy of the purchase order, vendor's invoice, delivery slip or packing ticket. The employee receiving the goods and signing the receipt document must verify the quantity and item description/part number with the purchase order or any other document and must check the condition of the items/packages to make reasonably sure that there are no problems with the delivery. If problems are observed, notes must be made on the receiving documents or the delivery must be returned. Partial delivery is acceptable. The original receipt of all documents must be forwarded to the Purchasing Department. The Purchasing Department must pair the receiving documents with the corresponding purchase order document and submit to the Accounts Payable Department to verify invoice payment.

No Town employee will sign for any item or service which is not received.

Payment for the goods will be made only to the extent the goods are received by the Town.

VIII. CREDIT CARD & PURCHASING CARD PURCHASES

The Town of Middletown encourages Purchasing Card usage for the following reasons:

- a. To provide an efficient, cost-effective method of purchasing and paying for small-dollar and/or high-volume, repetitive purchases, and



- b. To displace the use of a purchase order, a check request, and/or petty cash request in any event that a vendor accepts credit card payments, and
- c. To yield a reduction in the volume of purchase orders, invoices, check printing, and other paperwork, and
- d. To simplify the purchasing process, and
- e. To lower the overall transaction processing costs per purchase, and
- f. To increase the management information available pertaining to purchase histories

The employee using the credit card must make sure of the purchase price, quantity, quality and the necessity of the item. The employee must sign all receipts as required and submit the purchaser's copy of the purchasing card receipt to the Accounts Payable Department immediately for processing.

The purchasing card must be used only by authorized personnel and cannot be used for personal reasons.

All credit and purchasing cards shall be handled through the Finance Department as outlined in Purchasing Card Policy 1.6.1.

VII. INVOICES AND PAYMENTS

For payment purposes, the original invoices must carry one of the following: (1) dated approval stamp / authorized signature and date, or (2) approved and dated purchase order and evidence of receipt. Invoices are to be sent directly to the Accounts Payable Department. Invoices for vendors not loaded in the Town's financial software system must be accompanied by the Town of Middletown New Vendor Form.

The purchaser/authorized personnel must note that it is the Town's policy to consider all discount terms offered by vendors and therefore the payment documents must be submitted to the Accounts Payable immediately.

In other cases, it is the Town's policy to pay the invoices on time and, therefore, the payment documents must be submitted to Accounts Payable as soon as possible.