

City of Lebanon - Administrative Policy

Purchase Agreements Policy



Policy Number: #08-02-A

Effective Date: July 5, 2008

(Replaces Policy #06-01-A approved July 5, 2008)

Approved By:

Gregg Mandsager, City Manager

PURPOSE:

To establish dollar thresholds defining both what constitutes a Small Purchase and guides the methods of source selection in accordance with the city's Purchasing Policy; and to establish a consistent procedure for the orderly and expeditious processing of contracts, agreements or other instruments of obligation binding the city in the purchase of supplies, services and construction items.

POLICY:

General Application. As the principal contracting officer of the city all purchase agreements require city manager approval; are subject to and contingent on city manager approval; and shall be entered into subject to this.

Establishment of Expenditure Limits in Conjunction with the City's Purchasing Policy. In accordance with the city's Purchasing Policy the city manager shall establish small purchase limits that are practicable, provide that competition is obtained and that the small purchase system is not abused. The following supplements Section 02-204 Small Purchases of the city's Purchasing Policy:

- *Competition for Small Purchases of Supplies, Services or Construction Items.* Insofar as it is practical for small purchases of supplies, services and construction items between \$5,000 and equal to or less than \$15,000 at least three businesses shall be solicited to submit written quotations or documented oral quotations. For small purchases of supplies, services and construction items of more than \$15,000 and equal to or less than \$30,000 at least three businesses shall be solicited to submit written quotations. In both instances award shall be made to the business offering the lowest acceptable quotation.

- *Adequate and Reasonable Competition for Certain Small Purchases.* Small purchases of less than \$5,000 shall provide for obtaining adequate and reasonable competition.

- *Small Purchases of Consultative, Legal, Architectural, Engineering and Land Surveying.* If it is expected that consultative, legal, architectural, engineering and land surveying can be purchased for less than \$30,000 the city shall contact the most qualified firm and attempt to negotiate a contract for the required services at a fair and reasonable price.

City Manager Approval Required for Purchase Agreements of \$5,000 or More. The city manager shall approve purchase agreements equal to or greater than \$5,000; department heads have authority to commit the city in purchasing-related agreements of less than \$5,000.

Use of Purchase Orders Required for Purchases of \$5,000 or More. Purchase orders must be issued for purchases equal to or greater than \$5,000; city manager approval is required. Purchase orders may be issued for purchases of less than \$5,000 without city manager approval. Certain purchases are not readily adaptable to the use of purchase orders. Exceptions from this Policy shall be considered on a case-by-case basis by the city manager and incorporated as part of this Policy by reference.

PROCEDURE:

Please refer to the following Policy.



CITY OF LEBANON, NEW HAMPSHIRE PURCHASE AGREEMENTS POLICY

Approved: July 5, 2008
Policy No.: #08-02-A

PURCHASE AGREEMENTS POLICY

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PURCHASE AGREEMENTS POLICY

[Reserved]

PURCHASE AGREEMENTS POLICY

01 GENERAL PROVISIONS

01-101 PURPOSE

To establish dollar thresholds defining both what constitutes a Small Purchase and guides the methods of source selection in accordance with the city's Purchasing Policy; and to establish a consistent procedure for the orderly and expeditious processing of contracts, agreements or other instruments of obligation binding the city in the purchase of supplies, services and construction items.

01-102 SCOPE

As the principal contracting officer of the city all purchase agreements require city manager approval; are subject to and contingent on city manager approval; and shall be entered into subject to this policy.

01-103 EFFECTIVE DATE

Approved by the city manager July 5, 2008 as administrative policy #08-02-A replacing a previous policy #06-01-A approved July 10, 2006.

01-201 AUTHORITY TO ENTER INTO PURCHASE AGREEMENTS

01-201.01 *NH RSA 31:3.* Towns may purchase and hold real and personal estate for the public uses of the inhabitants, and may sell and convey the same; may recognize unions of employees and make and enter into collective bargaining contracts with such unions; and may make any contracts which may be necessary and convenient for the transaction of the public business of the town.
Source. RS 31:3. CS 32:3. GS 34:3. GL 37:3. PS 40:3. PL 42:3. RL 51:3. RSA 31:3. 1955, 255:1, eff. July 14, 1955.

01-201.02 *NH RSA 44:2.* All provisions of statutes, now made or hereafter enacted relating to towns, shall be understood to apply to cities; and all provisions relating to the selectmen and town clerks of towns shall be construed to apply to the mayor and aldermen and clerks of cities, respectively, unless a different intention appears.
Source. GS 40:2. GL 44:2. PS 46:2. PL 50:2. RL 62:2.

01-301 FINANCIAL AND BUDGETARY CONTROL

01-301.01 *City Charter Section 419:37 Financial Control.* The department of finances shall maintain accounting control over the finances of the city, make financial reports and perform such other duties as may be required by the administrative code. No bill against the city shall be approved by the city manager until the department of finance has audited and approved the same and certified that said bill was lawfully contracted, that the prices charged for all goods and materials are reasonable, that the goods or materials were actually received by the city and that it is in favor of a

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person legally entitled to receive payment for the same.

01-301.02 *City Charter Section 419:38 False Certification, Penalty.* If the Department of Finance or any member thereof provided for under Section 37 above, shall knowingly make a false certification in any case provided for in Section 37 or approve any bill when the appropriation, as provided for in Sections 42 and 43 of this chapter, for which the same should be paid is exhausted, such false certification shall constitute a misdemeanor, and he shall be fined not exceeding two hundred dollars or imprisoned not exceeding six months or both.

01-301.03 *City Charter Section 419:39 Unauthorized Payment, Penalty.* If the disbursing officer of the city shall pay out any money from the city treasury except on order of the City manager after approval by the department of finance, such unauthorized payment shall constitute a misdemeanor and he shall be fined not exceeding two hundred dollars or imprisoned not exceeding six months, or both, and shall be personally bound to refund to the city any sum so paid.

01-401 RESTRICTIONS

01-401.01 *City Charter Section 419:20 Dealings of Council with City.* No councilor, or other official of the city, shall sell to or buy from the city any goods or commodities while in office other than by open competitive public bid.

01-401.02 *City Charter Section 419:63 Private Use of Public Property.* No officer or employee shall devote any city property or labor to private use except as may be provided by law or ordinance.

01-501 GLOSSARY

- (1) *Change Order* is a written alteration to a contract or purchase order in accordance with the terms of the contract unilaterally directing the contractor to make changes.
- (2) *Modification* is a written alteration to a provision of any contract accomplished by mutual agreement of the parties to the contract.
- (3) *Purchase Agreements* are contracts, agreements or other instruments of obligation binding the city in the purchasing of supplies, services and construction items that are formal documents and not price quotations or purchase orders.
- (4) *Purchase Orders* authorize a vendor to release goods or services to the city and informs him/her that funds are available to pay for the goods or services. A purchase order becomes a binding obligation when the vendor demonstrates his/her acceptance through initiation of some action to fill the order.
- (5) *Purchase Requisitions* establish the need and provide justification for any supplies, services and construction items and should be completed, with appropriate substantiating documentation attached, in its entirety to include

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justification, suggested suppliers and/or contractors, quantity, specifications, account code for funding, vendor number when applicable, shipping, delivery and production timetables and details, and pricing.

02 SMALL PURCHASE EXPENDITURE LIMITS

02-201 PURCHASING POLICY

02-201.01 *General.* In accordance with the city's Purchasing Policy (#06-02-C; adopted July 5 2006) the city manager shall establish small purchase limits that are practicable, provide that competition is obtained and that the small purchase system is not abused. The following sections 02-201.02 through 02-201.04 supplement sections 02-204.02, 02-204.03 and 02-204-04 of the city's Purchasing Policy.

02-201.02 *Competition for Small Purchases of Supplies, Services or Construction Items.* Insofar as it is practical for small purchases of supplies, services and construction items between \$5,000 and equal to or less than \$15,000 at least three businesses shall be solicited to submit written quotations or documented oral quotations. For small purchases of supplies, services and construction items of more than \$15,000 and equal to or less than \$30,000 at least three businesses shall be solicited to submit written quotations. In both instances award shall be made to the business offering the lowest acceptable quotation.

02-201.03 *Adequate and Reasonable Competition for Certain Small Purchases.* Small purchases of less than \$5,000 shall provide for obtaining adequate and reasonable competition.

02-201.04 *Small Purchases of Consultative, Legal, Architectural, Engineering and Land Surveying.* If it is expected that consultative, legal, architectural, engineering and land surveying can be purchased for less than \$30,000 the city shall contact the most qualified firm and attempt to negotiate a contract for the required services at a fair and reasonable price.

03 PURCHASE AGREEMENTS

03-101 TYPES OF PURCHASE AGREEMENTS

Any type of contract, agreement or other instrument of obligation binding the city in the purchasing of supplies, services and construction items that promotes the best interests of the city may be used provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited.

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- 03-201 APPROVAL OF PURCHASE AGREEMENTS
- 03-201.01 *City Manager Approval Required for Purchase Agreements of \$5,000 or More.* The city manager shall approve purchase agreements equal to or greater than \$5,000; department heads have authority to commit the city in purchasing-related agreements of less than \$5,000.
- 03-201.02 *Artificial Division of Purchase Requirements Prohibited.* Purchase requirements shall not be artificially divided or fragmented so as to circumvent approval threshold.
- 03-201.03 *Contract Clauses.* Where appropriate, city contracts shall provide for consideration of adjustments in prices, time of performance, liquidated damages, specified excuses for delay or nonperformance and termination of the contract in whole or in part for the convenience of the city.
- 03-201.04 *Fiscal Responsibility.* All change orders and modifications must be approved by the city manager.

04 PURCHASE ORDERS

- 04-101 USE OF PURCHASE ORDERS
- 04-101.01 *General.* A purchase order authorizes a vendor to release goods or services to the city and informs him/her that funds are available to pay for the goods or services. A purchase order becomes a binding obligation when the vendor demonstrates his/her acceptance through initiation of some action to fill the order.
- 04-101.02 *Use of Purchase Orders Required for Purchases of \$5,000 or More.* Purchase orders must be issued for purchases equal to or greater than \$5,000; city manager approval is required. Purchase orders may be issued for purchases of less than \$5,000 without city manager approval.
- 04-101.03 *Encumbrances.* A purchase order is a contractual (outstanding) commitment – an expenditure in process. The amount of unexpended and uncommitted appropriations (authorization by the city council to spend public funds for public purposes) is reduced by the amount of the purchase order. If the goods or services for which a purchase order relates have not been received by the end of the year the outstanding commitments (encumbrances) are added to expenditures and the sum is compared with the appropriations. If the goods or services have been received before the end of the year the encumbrance is superseded by an expenditure with the amount of uncommitted (unencumbered) and unexpended appropriations adjusted for the amount by which actual costs exceeded or fell short of projected costs. The process of encumbering budgeted funds is meant to ensure budgetary compliance both to prevent overspending appropriations for the year and to detect violations of budgetary authority.

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04-201 EXCEPTIONS

Certain purchases are not readily adaptable to the use of purchase orders. Exceptions from this Policy shall be considered on a case-by-case basis by the city manager and incorporated as part of this Policy by reference.

The following are some types of charges not requiring a purchase order:

1	Utility Bills (Telephone, Electric, etc.)	13	Insurance Premiums – Health, STD, LTD, Dental, Workers' Compensation, Unemployment and Property-Liability
2	Advertising	14	Postage
3	Travel	15	Designated Budgetary Transfer Between Funds Including Transfers to Capital Reserve Funds
4	Vehicle Allowance	16	Maintenance Agreements and Ongoing Service Contracts
5	Subsistence and Support of Persons	17	Subscription Renewals
6	Rents and Leases	18	Annual Dues
7	Payroll Related Payments	19	Remittance of Property Taxes Levied and Collected on Behalf of the School District and County
8	Judgements and Claims	20	
9	Budgeted Payments to Outside Human Service Agencies/Organizations, Outside Recreation Organizations and Advance Transit	21	
10	Principal and Interest Payments on Bonded Debt	22	
11	Welfare Payments	23	
12	Legal and Audit Fees	24	

04-301 PROCEDURES

04-301.01 *Purchase Requisitions.* A purchase order is generated following the preparation and approval (by city manager if purchase equals or exceeds \$5,000) of a purchase requisition. Purchase requisitions establish the need and provide justification for any supplies, equipment or services and needs to be prepared, with appropriate substantiating documentation attached, to include justification, suggested suppliers and/or contractors, quantity, specifications, account code for funding, vendor number when applicable, shipping, delivery and production timetables and details, and pricing. Information furnished on purchase requisitions is used in preparing purchase orders.

04-301.02 *Supporting Documentation.* It is the responsibility of originating city departments to ensure that purchase requisitions are accompanied by appropriate supporting documentation and completed in sufficient detail as to item(s) and/or service(s) to be procured and terms and conditions of such procurement as to enable the

preparation of a purchase order.

05 ETHICS IN PUBLIC CONTRACTING

Public employment is a public trust. City employees must discharge their duties impartially so as to assure fair competitive access to city purchasing by responsible contractors. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of a city employee's duties is a breach of a public trust. Any effort to influence any city employee to breach the standards of ethical conduct is also a breach of ethical standards.