

**TOWN OF PORTSMOUTH, RI**  
**Ordinance # 2005-4-11-B**

**Purchasing Ordinance**

An ORDINANCE of the Town of Portsmouth, Newport County, Rhode Island relating to the competitive bid purchasing policy and procedures.

1. Short title. This ordinance may be known and cited as the “purchasing ordinance.”
2. Legal authority. This ordinance is adopted pursuant to the authority contained in Section 45-55-9, Rhode Island General Laws, 1956, 1988 Reenactment, as amended (RIGL) and the Town’s Home Rule Charter, section 910.
3. Exclusions. Contracts for professional, architectural, consulting or engineering services are expressly exempted from the terms of this ordinance and shall follow the qualification based selection process in accordance with RIGL 45-55-8.1. The procurement of the service of an attorney, physician or dentist by the Town is also expressly exempted from the terms of this ordinance in accordance with RIGL 45-55-14.
4. Purchasing Authority. The Town Council shall have the following final powers and discretions with respect to all purchases:
  - a. To purchase or contract for all supplies, materials and equipment required by any office, department or agency.
  - b. To establish and enforce specifications with respect to supplies, materials and equipment required by the Town.
  - c. To be responsible for the inspection of deliveries of supplies, materials and equipment and to determine their quality, quantity and conformance with specifications and to have the authority, where personal inspection is not feasible, to delegate said responsibility.
  - d. To transfer to or between offices, departments or agencies surplus, obsolete or unused supplies, materials and equipment and to sell any Town property.
  - e. To be responsible for the storage and distribution of all supplies, materials and equipment used by any office, department or agency and to have charge of any general store rooms and warehouses of the Town.
  - f. To delegate any or all of the above to the Town Administrator upon majority vote.
5. Applicability. Procurements, not to exceed an aggregate amount of \$10,000 for construction and \$5,000 for all other purchases shall be made in accordance with this ordinance. These amounts shall be increased or decreased annually hereafter at the same rate as the Boston Regional Consumer Price Index. Procurement requirements shall not be artificially

divided so as to constitute a small purchase under RIGL 45-55-9. For purposes of this ordinance, the terms "procurement" and "construction" shall be defined as in RIGL 45-55-4. Purchases in excess of the above specified amounts shall be made in accordance with state law and Section VI of this ordinance.

In accordance with RIGL 45-55-3, the Town Council hereby appoints the Finance Director as Purchasing Agent. The Finance Director is responsible for ensuring that the Town's procurement actions comply with State law.

6. Small Purchases Not Requiring Prior Council Approval. The Town Administrator or Department Head, acting on behalf of the Town Council, may approve the purchase of any previously budgeted item or items otherwise reasonably necessary or incidental to the day to day functioning of Town offices and departments, without prior approval of the Town Council providing that such purchase shall be in a sum less than \$5,000 (\$10,000 for construction).

In the case of purchases of less than \$1,000, such purchases may be made without the necessity of seeking competitive bids. Where practicable, however, solicitation of competitive quotations is encouraged.

In the case of purchases costing \$1,000 or more, but less than \$2,500, three telephonic or written quotations shall be necessary and documented, but advertising and approval by the Town Council shall not be necessary. If three quotes cannot be obtained, it shall be so stated in writing.

In the case of purchases costing \$2,500 or more, but less than \$5,000 (\$10,000 for construction), three written quotations shall be necessary, but advertising and approval by the Town Council shall not be necessary. If three written quotes cannot be obtained, it shall be so stated in writing. The \$5,000 and \$10,000 figures shall be adjusted annually at the same rate as the Boston Regional Consumer Price Index.

The requirement for three telephonic or written quotes may be waived if the goods or services have already been competitively bid on a local, regional, state or national level by a governmental organization and the Town is permitted to use the contract price established by the other governmental entity.

Such small purchases shall be deemed ratified as if expressly authorized by the Town Council at the time the Town Administrator or Department Head first approves the purchase.

The Finance Director is responsible for ensuring that procurement using grant funds is in accordance with the terms of the grant. The Finance Director is

also responsible for ensuring that purchases made with general revenue, special revenue and grant funds are made lawfully. Such funds may not be used to purchase political materials or services. Such funds may not be used to procure goods or services which would benefit Town employees or elected officials.

Department Heads will retain bid documentation for a minimum of three years after bid award.

7. Bid Purchasing Requirements. Each purchase which is not a small purchase as set forth in the preceding section shall be subject to the method of source selection set forth in RIGL 45-55-2. The Finance Director is responsible for ensuring that the Town complies with State law for large procurement actions.
  - a. Competitive sealed bidding will be the most common method of source selection. Specifications can be prepared that permit award on the basis of either the lowest qualified bid price or the lowest qualified evaluated bid price. The invitation for bids shall state whether award shall be made on the basis of the lowest bid price or the lowest evaluated or responsive bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be stated in the invitation for bids. The invitation to bid shall be advertised and other provisions of RIGL 45-55-5 shall be followed.
  - b. Upon receiving the report of the Finance Director for large procurement actions, the Town Council, by majority vote, shall award the purchase to the lowest qualified bid or the lowest evaluated or responsive bid as required by RIGL 45-55-5.

The requirement for competitive sealed bidding shall be considered met if the goods or services have already been competitively bid on a local, regional, state or national level by a governmental organization and the Town is permitted to use the contract price established by the other governmental entity.

8. Special Rules. The Finance Director may make any and all such special rules and regulations affecting any specific bid purchase from time to time as necessary and relevant under the circumstances concerning any such purchase provided, however, that all responsive bidders are furnished notice of such special regulations and an opportunity to inspect the same prior to the submission of a bid.
9. Sole Source Procurement. A contract may be awarded for a supply, service or construction item without competition when the Finance Director (or the Department Head in the case of small purchasing) determines, in writing, that there is only one source for the required supply, service or construction item as permitted by RIGL 45-55-8.

10. Emergency Procurement. The President of the Town Council, Town Administrator or Department Head may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions as defined by the State's Emergency Management Agency or where the procurement will be in the best interest of the Town; provided, that emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of a particular contractor shall be included in the contract file.
11. Application to Other Entities. The provisions of this ordinance shall not apply to purchases by the School Department since a specific provision in the Town Charter pertains.
12. Savings Clause. Any ordinance or provision of any ordinance of the Town inconsistent with the provisions hereof is expressly repealed, and any ordinance, or provision of any ordinance, not inconsistent with the provisions hereof remains in full force and effect. Ordinance No. 84-12-17B also known as Ordinance 84-12 is expressly repealed.
13. Severability. If any part of this ordinance is held unconstitutional, or otherwise invalid or unenforceable, by a judicial court of competent jurisdiction, the other remaining portions of this ordinance not affected thereby shall remain in full force and effect.
14. Effective Date. This ordinance shall take effect upon its passage.

ADOPTED BY TOWN COUNCIL  
ACTION ON April 11, 2005

  
Kathleen Viera Beaudoin,  
Town Clerk