



**TOWN OF MANSFIELD  
Ad-Hoc Committee for Responsible Contracting  
Friday, February 15, 2013  
Audrey P. Beck Municipal Building  
Council Chamber**

**8:30 a.m.**

**SPECIAL MEETING AGENDA**

Call to Order/Roll Call

Approval of December 17, 2012 Minutes

Opportunity for Public to Comment

Reports

- Staff
- Other

New Business

1. Special Guest Speaker
  - a. Bruce Benway, Town Manager, Killingly
2. Other Discussion Regarding Responsible Contracting
3. Future Agendas/Next Steps

Communications

- P. Philips re: An economists view of responsible contractor policies

Adjournment

**TOWN OF MANSFIELD**

**AD HOC COMMITTEE FOR RESPONSIBLE CONTRACTING**

**Monday, December 17, 2012**

**Council Chambers, Audrey P. Beck Building**

**Minutes – DRAFT**

**Members Present: Deputy Mayor Toni Moran (Chair), Mayor Elizabeth Paterson, Chris Paulhus**

**Other Council Members Present: David Freudmann**

**Staff Present: Town Manager Matt Hart, Director of Finance Cherie Trahan, Director of Public Works Lon Hultgren, Director of Building and Housing Mike Nintean, Acting Fire Marshal and Deputy Chief Fran Raiola and Clerk of the Works Eric Ohlund.**

**The meeting was called to order at 9:00 a.m.**

**APPROVAL OF MINUTES**

**Paulhus made the motion, seconded by Paterson to adopt the 11/5/12 meeting minutes as presented. Motion passed unanimously.**

**PUBLIC COMMENT**

**William Jordan, New England Council of Carpenters, reported the person (Kenneth Duff) responsible for apprentice programs at the State Department of Labor would be willing to appear before this committee.**

**1. Special Guest Speakers**

**Town staff presented information on the current regulatory, safety and procurement processes. Mike Nintean discussed the process of conducting building code inspections which is the same for both public and private projects and provided examples of the types of inspections done in conjunction with the Storrs Center Project. Fran Raiola presented information on the workings of the Fire Code. Municipalities cannot amend the Building or Fire Codes by ordinance but modifications to the codes may be requested for specific instances. (Presentation attached)**

**Lon Hultgren and Cherie Trahan provided an overview of the bidding process for public projects and discussed the current relevant ordinances. The Finance Department has the responsibility for reviewing all bids and often uses the state bid prices. Federal and State financed projects have their own bidding and purchasing processes. (Presentation attached)**

**Council members asked if there are requirements in the bids which protect workers and if the Town could exceed the requirements set forth in the Federal and State bids. Mr. Hultgren stated the prevailing wage is required when projects over certain amounts are planned. Mr. Hultgren will check to see if the prevailing wage is the same for both state and federal projects.**

**Eric Ohlund reported at the beginning of each project a meeting is held at which the contractor is required to review their hiring practices. Mr. Ohlund also does wage checks for contractor and subcontractors. Mr. Hultgren will check to see if state bids pay the prevailing wage for services.**

**2. Future Meeting Dates/Next Steps**

By consensus the Committee agreed to schedule the next meeting for January and to invite representatives of the State Department of Labor and the Town of Killingly. This will be a morning meeting. Future meetings, at a time to be determined, will include invitations to local contractors and the Association of Builders and Contractors (ABC).

Respectfully submitted,  
Mary Stanton, Mansfield Town Clerk

# Killingly Code of Ordinances

## **Article XIII CAPITAL RESERVE FUNDS**

### **DIVISION 1 GENERAL CONDITIONS OF USE**

#### **Section 2-181**

##### **1. Expenditures**

- a. Capital Projects - Expenditures may be made from said Fund to fund, in whole or in part, Town capital projects. Uses may include, but shall not be limited to: municipal infrastructure construction and improvements, municipal, school, parks and recreation facilities construction and improvements and the acquisition of land. Funds may be expended for contractual services, materials, supplies, equipment and professional services; however, said Fund shall not be expended for normal, routine operating expenses of the Town.
  - b. Information Technology - Expenditures may be made from said Fund to fund, in whole or in part, technology equipment, computer software or hardware and any other expenditures related to utilizing information technology in support of Town functions. Said expenditures shall be segregated from other expenditures described herein and shall be supported by revenues derived from fees, charges and inter-fund transfers associated with information technology.
  - c. Geographic Information System - Expenditures may be made from said Fund to fund, in whole or in part, technology equipment, computer software or hardware and other expenditures related to utilizing the town's geographic information system in support of Town functions. Said expenditure shall be segregated from other expenditures described herein and shall be supported by revenues derived from fees, charges and inter-fund transfers associated with geographic information technology.
2. The sources of revenue of the Capital Revenue Fund may be any of the following as the Town Council shall, from time to time, determine: General Fund appropriations and contributions from other Town funds, as may be authorized by the Town Council.
  3. The Town Finance Department will maintain an accounting of the activity of the Fund.
  4. In the event of the dissolution of the Fund, any balance remaining in the Fund shall be transferred to the Fund Balance of the General Fund.

### **DIVISION 2 DISBURSEMENTS**

#### **Section 2-182**

1. All disbursements for Capital Projects and the Geographic Information System from this Fund shall be authorized by the Town Council upon a recommendation by the Town Manager.
2. All disbursements for information technology from this Fund shall be authorized by the Town Manager. (Ord. No. C00-025, 9-12-00) (Ord. 8-12-03; Amending Ord. of 8-9-05)

#### **Section 2-183 - 2-200 Reserved**

## **Article XIV PROCUREMENT CODE OF THE TOWN OF KILLINGLY**

### **Section 2-201 Purpose**

The purpose of this Procurement Code is to:

- A. Provide for the fair and equitable treatment of all persons involved in public procurement by the Town of Killingly.
- B. Maximize the value of public funds in procurement.
- C. Provide safeguards for maintaining procurement procedures of quality and integrity.

### **Section 2-202 Application**

- A. This Procurement Code applies to the procurement of supplies, services and construction for the Town, except for items or services specifically certified by the Board of Education as exempt from the Code as educational items not amenable to bid. It shall apply to every expenditure of public funds by any general government department of the Town irrespective of the source of funding except when any purchase involves the expenditure of federal or state assistance or contract funds, where said purchases shall be conducted in

## Killingly Code of Ordinances

- accordance with any applicable laws and/or any federal, state or local regulations approved for the expenditure by the appropriate federal or state agency. Nothing in this Procurement Code, hereafter referred to as this code, shall prevent any department of the Town from complying with the terms and conditions of any grant, gift or request that is otherwise consistent with law. The use of any open bid rendered to the State of Connecticut or the Council of Governments or other governmental body with which Killingly is associated shall be considered in compliance with this code.
- B. In order to promote contracts with vendors having responsible employment practices, preference should be given to goods or services produced in the United States and to vendors known for their responsible labor practices. Responsible labor practices shall include wage and benefit levels as may be required by Connecticut General Statutes and sufficient to meet basic needs while providing some discretionary income for a family of four, respect for workers' rights including the right to be heard and to organize and a safe and healthy work environment.
- C. All specifications shall be drafted to promote overall economy for the purposes intended and encourage competition in satisfying the Town's needs, and shall not be unduly restrictive. The policy enunciated in this sub-section applies to all specifications including but not limited to those prepared for the Town by architects, engineer, designers and draftsmen.

### Section 2-203 Definitions

The following words, terms and phrases, when used in this code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- Brand name or equal specification:** A specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance and other salient characteristics needed to meet Town requirements, and which provides for the submission of equivalent products.
- Brand name specification:** A specification limited to one or more items by manufacturers' names or catalogue numbers.
- Contract:** All types of agreements including purchase orders, regardless of what they may be called, for the purchasing of supplies or services.
- Contractor:** Any person having a contract with the Town or any of its departments. The term "contractor" shall include the general or prime contractor and shall include subcontractors performing work under the contract.
- Construction:** The process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.
- Local Bidder:** Any bidder having its registered principal place of business within the confines of the Town of Killingly.
- Services:** The furnishing of labor, time or efforts by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements or the appointment of the Town Attorney which shall be governed by Section 902 of the Town Charter.
- Specification:** Any description of the physical or functional characteristics or the nature of a supply or service item. It may include a description of any requirement for inspecting, testing or preparing a supply or service item for delivery.
- Supplies:** All consumables or property, including but not limited to equipment, materials, printing and leases for real property, excluding land or a permanent interest in land.

### Section 2-204 Appointment, authority and duties of Purchasing Agent

- A. In accordance with Section 903 of the Town Charter, the appointment by the Town Manager of the Finance Director to be Purchasing Agent is herein confirmed.
- B. The authority and duties of the Purchasing Agent shall be as follows:
1. Except as may be otherwise provided, the Purchasing Agent shall serve as the principal purchasing official for the Town, and shall be responsible for the purchasing of supplies or services in accordance with this code.
  2. In accordance with this policy and subject to the supervision of the Town Manager, the Purchasing Agent shall:
    - a. Procure or supervise the purchasing of all supplies and services needed by the Town;

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- b. Exercise direct supervision over the Town's central stores and general supervision over all other storeroom inventories belonging to the Town;
- c. Assist the departments of the Town with the establishment and maintenance of programs for specification development, contract administration and product inspection and acceptance and coordination of supplies and service purchases.

### Section 2-205 Department responsibilities

- A. The responsibility of department heads regarding purchasing shall be as follows:
  1. Development of specifications for supplies or services shall be the responsibility of department heads. Any specifications to be included in an invitation for competitive sealed bids or proposals shall be submitted to the Purchasing Agent.
  2. When requesting for a purchase, the highest quality item(s) for a specified use at the lowest possible expense is required by all department heads, or their delegates.
  3. Department heads are required to control, supervise and maintain any necessary inventories in a storeroom. Such storerooms shall serve as the receiving and distribution points for materials purchased by a using department.
  4. With the exception of public works parts and fuel inventories, departments will be charged for items at the time of purchase. Departments receiving parts and fuel from public works inventories will be charged as items are used. The Highway Division of Public Works will conduct a physical inventory count of all supplies at such time as there is a change in personnel directly responsible for those storerooms, at fiscal year end, and as otherwise may be required throughout the year.
  5. Local purchasing is encouraged where competitive market prices exist except when subsection 7 of this section or Section 2-206 applies. Local purchasing is required unless non-local purchasing is more cost effective. The following factors shall be considered to determine cost effectiveness:
    - a. Price;
    - b. Comparable quality;
    - c. Cost/ability to secure prices;
    - d. Shipping and handling cost;
    - e. Convenience of follow-up service;
    - f. Time to secure the supply, item or service.
  6. Inspection of incoming materials or services shall be performed for compliance with specifications. These inspections are to be maintained under rigorous review by department heads and their authorized designees. The receiving report copy of the purchase order and any packing slips are to be completed and returned to the Finance Department upon acceptance and payment of an order.
  7. Unless otherwise provided, the single purchase of a supply item in an amount estimated at \$5,000.00 or above shall be made only by written contract award through a formal bidding procedure. No supply or service generally purchased in the whole shall be purchased as a sum of the parts for the purpose of avoiding the requirement to solicit bids. A single purchase of services in an amount estimated at \$5,000.00 shall be made only by written contract award through the appropriate proposal procedure. Sole source purchases and emergency purchases as provided for respectively in Sections 2-209 and 2-210 shall be exceptions to these rules.
- B. Consistent with this code and with the approval of the Town Manager, the Purchasing Agent may adopt operational procedures relating to the execution of his or her duties.

### Section 2-206 Competitive sealed bidding

All contracts of the Town for procurement at or in excess of \$ 5,000 shall be awarded by competitive sealed bidding except as otherwise provided in this code and in accordance with the following:

- A. Public notices for inviting bids.
  1. Newspapers. Notices inviting bids shall be published once in at least one official newspaper having a circulation in the Town and such other newspapers as may be necessary to ensure competition in the area and at least five ten (10) calendar days preceding the last day set for the receipt of proposals.
  2. Town of Killingly website. Notice inviting bids shall be posted on the Town of Killingly website.
  3. Bidders' list. The Purchasing Agent shall also solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a "bidders' list" which the Purchasing Agent shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale. The Purchasing Agent may remove from the list any prospective

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supplier that has failed to send a bid in response to the last two (2) solicitations sent by the Purchasing Agent.

### B. Scope of notices shall:

1. Include specifications and all contractual terms and conditions applicable to the purchase.
2. The notice shall State where bid blanks and specifications may be secured and the time and place for opening bids.
3. Notice Be sent to the any vendors on the bidders' list but shall be limited to transactions for commodities that are similar in character and ordinarily handled by the trade group to which the notices are sent.

### C. Bid security:

1. Construction contracts exceeding \$50,000. Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the designated official for construction contracting management to exceed \$50,000.00. Bid security shall be a bond provided by a surety company authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the Finance Director. Nothing herein shall prevent the requirement of such bonds on construction contracts under \$50,000.00 when the circumstances warrant.
2. Bid security shall be in an amount equal to at least ten percent (10%) of the amount of the bid.
3. When the invitation for bids requires security, noncompliance requires that the bid be rejected.
4. If a bidder is permitted to withdraw a bid before award as provided in Section 2-206, Subsection H.a. of this code, no action shall be taken against the bidder or the bid security.
5. Refund of deposit. The Purchasing Agent shall return the security deposit of any unsuccessful bidder.
6. Forfeit of deposit. The deposit of a successful bidder shall be forfeited if he fails to enter into a contract within ten (10) days after the award.

### D. Contract Performance and Payment Bond:

1. When a construction contract is awarded in excess of \$50,000.00, the following bonds or security shall be delivered to the Town and shall become binding on the parties upon the execution of the contract:
  - a. A performance bond satisfactory to the Finance Director executed by a surety company authorized to do business in Connecticut; and
  - b. A payment bond satisfactory to the Finance Director executed by a surety company authorized to do business in the state. The bond shall be in the amount equal to 100 percent of the price specified in the contract.
2. Nothing in this section shall be construed to limit the authority of the Town to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection A of this section. Nor shall this section be construed to limit the authority of the Town to require warranties or guarantees against defects where circumstances recommend them.

### E. Sealed bids.

All bids submitted pursuant to the terms of this section shall be sealed and identified on the envelope as bids.

### F. Bid opening procedures.

1. Opening. Bids shall be opened in public at the time and place announced in the public notices required in this article. The amount of each bid, and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder shall be publicly read for the benefit of any bidders and each bid shall be open to public inspection.
2. Postponement due to closing. If Town Hall shall be closed for weather or any other conditions, bid opening date shall be postponed until the same hour on the next day that Town Hall is officially open for business.

### G. Evaluation:

Bids shall be unconditionally accepted without alteration or correction, except as authorized in this code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in a bid evaluation that is not set forth in the invitation for bids.

### H. Corrections, Withdrawals

Correction or withdrawal of inadvertently erroneous bids before or after bid opening or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be withdrawn. After bid opening, no changes in bid prices or other provisions of bids

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prejudicial to the interest of the Town or fair competition shall be permitted. In lieu of a bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

- a. The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- b. The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Agent and approved by the Town Manager.
  - i. Tie bids.
    1. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder.
    2. Where all tie bidders or none of them are local bidders, the Purchasing Agent shall award the contract by drawing lots.

J. Rejection of bids when in public interest.

The Purchasing Agent shall have the authority to reject all bids, parts of all bids or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The reasons therefore shall be made part of the contract file. Each solicitation issued by the Town shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the Town. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future purchases(s) of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or proposers.

K. Rejection of bid where bidder is in default to the Town.

1. The Purchasing Agent shall not accept the bid of a contractor who is in default on the payment of taxes, licenses or other monies due the Town, or of a contractor, a principal of which is in default on the payment of taxes, licenses or other monies due the Town. The Purchasing Agent shall include in the bid document a form to be executed by a bidder, certifying that said bidder is not in default on the payment of taxes, licenses or other monies due the Town.
2. As used in this section:
  - a. a "principal" of a contractor shall mean an individual who is a director, an officer, an owner, a limited partner or a general partner; and,
  - b. "default in the payment of taxes" shall mean the failure to pay taxes by the date such taxes are due and payable or the failure to be current with respect to a delinquent taxes payment schedule as set forth in a written agreement with the Revenue Collector.

L. Award of contract.

The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

M. Award to other than lowest bidder; reasons must be stated.

When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the Purchasing Agent and filed in his records with the other documents relating to the award.

N. Considerations used in determining lowest responsible bidder.

The Purchasing Agent shall consider the following in his determination of who is the lowest responsible bidder:

- a. The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- c. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- d. The quality of performance of previous contracts or services.
- e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service, including, but not limited to, the provisions of subsection O of this section.
- f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the services.
- g. The quality, availability, and adaptability of the supplies, or contractual services to the particular use required.
- h. The ability of the bidder to provide future maintenance and service for the subject of the contract.

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- O. Contractual provisions concerning fair wages and employment of residents.
1. All contracts entered into between the Town and contractors which utilize trades persons or laborers by the contractor in the performance of the contract shall incorporate the following provisions:
    - a. The contractor and all subcontractors will not employ any illegal aliens to work on any projects in the Town of Killingly;
    - b. All contractors and subcontractors will provide copies of Federal DHS Form I-9 for each employee assigned to working for the Town of Killingly;
    - c. Violations of this section will result in permanent disbarment from future work for the Town of Killingly.
    - d. Preference shall be given to residents of the Town of Killingly in the hiring of labor necessary to the construction, remodeling or repairing of public buildings of the Town.
    - e. In the event the contractor is restricted by labor contracts, or the required specific skills that are not available in the Town of Killingly, the contractor may hire tradesmen and/or laborers who reside outside the Town.
  2. Where applicable, construction of any public works project shall be performed in accordance with Connecticut General Statutes, Section 31-53 as it may be amended from time to time.\*
  3. All workers furnishing the goods and services in connection with the construction shall be properly classified as employees rather than independent contractors, causing them to be treated accordingly for the purposes of pay, benefits, worker's compensation, insurance coverage, unemployment compensation coverage, social security taxes and income tax withholding.
  4. All contractors must maintain appropriate industrial accident insurance coverage for all employees.
  5. In contracts where the total cost of all work to be performed exceeds one hundred thousand dollars (\$100,000.00) and in all cases wherein one or more apprentices are employed, the employer shall be affiliated with a state-certified apprenticeship program and must register all apprentices with the division and abide by the apprentice to journeyman ratio for each trade prescribed therein.
  6. If a contractor signing a contract required under this subsection is found to have violated the provisions of this contract, it shall, if already paid by the Town, reimburse to the Town one percent (1%) of the payment that would have otherwise been owed by the Town for every count of violation found.

If a contractor signing a contract required under this subsection is found to have violated the provisions of the contract and it has not already been paid by the Town, the Town shall withhold from payment one percent (1%) of the payment that would have otherwise been owed by the Town for every count of violation found. For these purposes, each day of violation and each worker affected shall be deemed a separate count. If a contractor signing a contract required under this subsection is found to have violated the provisions of this contract they will be barred from performing any work on future projects for six months for a first violation, three years for a second violation, and permanently for a third violation. Each construction contract entered into by the Town shall recite that the contractor understands and agrees to the terms of this section.

\* Note: Section 31-53, on the effective date of this code, provided that: In contracts for new construction of any public works project where the total cost of all work to be performed by all contractors and subcontractors exceeds four hundred thousand dollars (\$400,000.00) and in contracts for remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project where the total of all work to be performed by all contractors and subcontractors exceeds one hundred thousand dollars (\$100,000.00), all tradesmen and laborers hired to perform under the contract shall be paid at the prevailing rates for the same work in the same trade in the town and shall receive the fringe benefits normally offered at that time for the particular trade. "Prevailing rates" as used herein shall mean the latest rates published by the state labor department unless otherwise required to qualify for a federal grant pertaining to the contract.

7. As used herein, the term "contractor" shall include the general or prime contractor and shall include subcontractors performing work under the contract.
  8. This bid procedure may be waived by the Town Manager when State Contracts are available for participation by local communities.
- P. Responsibility for selection of methods, of construction contract management.
- The Town Manager shall designate the official(s) to be responsible for any construction project in excess of \$35,000 that is not under the jurisdiction of the Permanent Building Commission as provided in Article IX of the Killingly Code of Ordinances. The designated official shall have discretion to select the appropriate

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method of construction contracting management for a particular project. In determining which method to use, the designated official shall consider the Town's requirements, its resources and the potential contractor's capabilities. The designated official shall include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project. This contract provision will be executed with the advice and consent of the Town Council.

**Q. Subdivision of contract prohibited.**

No contract or purchase shall be subdivided by the Purchasing Agent or any department head in order to circumvent or avoid the requirements of this division.

**R. Nondiscrimination provisions.**

Invitations to bid issued by the Town, on behalf of boards and commissions seeking contractual services for the construction of capital improvements shall include provisions concerning the payment of prevailing wages when called for pursuant to the provisions of 31-53a, proper classification as employees rather than as independent contractors, participation in a state-certified apprenticeship program, non-discrimination, anti-kickback, and conflict of interest similar to the type found in federal invitations to bid.

**S. Legal review and approval of contracts.**

No contract for goods or services to which the Town or any of its boards, commissions, departments, agencies or officials is a party shall be executed until the same has been reviewed and approved by corporation counsel with respect to form and legal substance. The Town shall not be bound by any contract unless such contract has been reviewed and approved by corporation counsel prior to its execution.

### **Section 2-207 Contracting for professional services**

A. For the purpose of procuring professional services such as auditing, accounting, banking, computer or information processing, architect, engineering, land surveying, clergy, medical, veterinary or dental; the department of the Town requiring such services may procure them on its own behalf following notification to the Purchasing Agent and in accordance with the selection procedures specified in this section.

B. Except as provided under the provisions for sole source purchasing and emergency purchasing, professional services as described in subsection A. of this section shall be procured as follows:

1. Persons engaged in providing the described professional services may submit statements of qualifications and expressions of interest in providing such professional services. The department of the Town using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

2. Adequate notice of the need for such services shall be given by the Town department requiring the services through a request for services. The request for proposals shall describe the service required, list the types of information and data required of each proposer, and state the relative importance of particular qualifications.

C. Sealed proposals shall be preferred but for purposes of expanding competition, proposals may be received by facsimile in accordance with procedures that ensure the security of the proposals to be developed by the Purchasing Agent and telephone bids may be authorized by the Town Manager where such bids constitute an industry standard.

D. Discussions may be conducted with any proposer who has submitted a proposal to determine such proposer's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other proposers.

E. Award shall be made to the proposer determined in writing by the Purchasing Agent and the head of the Town department procuring the required professional services to be best qualified based on evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified proposer, then negotiations will be formally terminated with the selected proposer. If proposals were submitted by one or more other proposers determined to be qualified, negotiations may be conducted with such other proposers, in the order of their respected qualification ranking, and the contract may be awarded to the proposer then ranked best qualified if the amount of compensation is determined to be fair and reasonable.

### **Section 2-208 Small purchases**

A. Any contract not exceeding \$5,000.00 may be made in accordance with the small purchase procedures authorized in this section.

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- B. Insofar as it is practical for small purchases in excess of \$300.00, no less than three businesses shall be solicited to submit quotations. Quotations may be accepted by telephone. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded with purchase orders and maintained as a public record.

### **Section 2-209 Sole source purchasing**

A contract may be awarded without competition when the Purchasing Agent with the approval of the Town Manager determines in writing, after conducting a good faith review of available sources, that there is only one source for the required supply or service item. The Purchasing Agent with the appropriate department head or designee shall conduct negotiations, as appropriate, as to price, delivery and terms. A record of sole source purchases shall be maintained as a public record and shall list each vendor's or contractor's name, the amount and type of each contract, a listing of the item(s) procured under each contract and the identification number of each contract file.

### **Section 2-210 Emergency purchasing**

Notwithstanding any other provision of this policy, the Town Manager may make or authorize others to make emergency purchases of supplies or services when there exists a threat to public health, welfare or safety; provided that such emergency purchases shall be made with such competition as is practicable under the circumstances.

### **Section 2-211 Brand name or equal specification**

- A. Brand name or equal specification may be used when the Purchasing Agent determines in writing that:
1. No other design or performance specification or qualified products list is available;
  2. Time does not permit the preparation of another form of purchase description, not including a brand name specification;
  3. The nature of the product or the nature of the Town's requirements makes use of a brand name or equal specification suitable for purchasing; or
  4. Use of a brand name or equal specification is in the Town's best interest.
- B. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.
- C. Where brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

### **Section 2-212 Brand name specification**

- A. Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Agent makes a written determination that only the identified brand name item or items will satisfy the Town's needs.
- B. The Purchasing Agent shall seek to identify sources from which the designated brand name item(s) can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the purchases shall be made under Section 2-209 of this code.
- (Ord. of 12-11-07)

**Sara-Ann Bourque**

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**From:** Peter Philips <leighlakeranger@yahoo.com>  
**Sent:** Thursday, December 20, 2012 2:13 PM  
**To:** Toni Moran; Town Mngr  
**Cc:** Dean Pallotti  
**Subject:** Re: an economist's view of responsible contractor policies

**Categories:** Requests - Public

**Peter Philips, Ph.D.**  
Labor Economist and Professor  
Economics Department  
260 S. Central Campus Drive,  
Orson Spencer Hall, Rm 343  
University of Utah  
Salt Lake City UT 84112

[philips@economics.utah.edu](mailto:philips@economics.utah.edu)  
[leighlakeranger@yahoo.com](mailto:leighlakeranger@yahoo.com)  
801 599-2374 cell  
801 466-3159 home  
801 581-7481 Department

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**From:** Peter Philips <leighlakeranger@yahoo.com>  
**To:** "Mngr@mansfieldct.org" <Mngr@mansfieldct.org>; "MoranT@mansfieldct.org" <MoranT@mansfieldct.org>  
**Cc:** Dean Pallotti <dpallotti@nercc.org>  
**Sent:** Thursday, December 20, 2012 12:11 PM  
**Subject:** an economist's view of responsible contractor policies

Dear Mr. Hart,

I have been asked by Mr. Dean Pallotti, Business Representative of the New England Regional Council of Carpenters to provide you with some background information regarding responsible contractor regulations in public procurement policies. I do not know Mr. Pallotti and do not have a financial relationship with him or the Carpenters union. I presume he got my name

based on my academic reputation as an expert on the construction industry and among other issues bidding practices in construction.

In any case, I am a Professor of Economics at the University of Utah specializing in the construction industry. I have done considerable work researching construction bidding practices, apprenticeship training in construction and the regulation of the construction labor market. My recent research in these areas include:

- Sheng Li and Peter Philips, "Construction Procurement Auctions: Do Entrant Bidders Employ More Aggressive Strategies than Incumbent Bidders?," *Review of Industrial Organization* Volume 40, Number 3, 191-205. Published, 04/06/2012.
- JaeWhan Kim, Kuo-Liang Chang and Peter Philips, "The Effect of Prevailing Wage Regulations on Contractor Bid Participation and Behavior: A Comparison of Palo Alto, California with Four Nearby Prevailing Wage Municipalities" *Industrial Relations*. Published, 10/01/2012.
- Li, Sheng and Peter Philips, "Analysis of the Impacts of the Number of Bidders upon Bid Values: Implications for Contractor Prequalification and Project Timing & Bundling," *Journal of Public Works Management & Policy*, Vol. 12, No. 3, 503-514 (2008) . Published, 12/01/2008.

A full list of my published research may be found at:

<http://econ.utah.edu/profile.php?site=economics&unid=u0035312&view=biography>

Please see the attached letter for an explanation of my views regarding responsible contractor policies. These views represent my professional opinion and do not necessarily

reflect the views of the University of Utah, Mr. Pallotti, the Carpenters union or any other entity. Should you have any questions, please feel free to contact me.

Best regards,

Peter Philips

**Peter Philips, Ph.D.**  
Professor  
Economics Department  
260 S. Central Campus Drive,  
Orson Spencer Hall, Rm 343  
University of Utah  
Salt Lake City UT 84112

[philips@economics.utah.edu](mailto:philips@economics.utah.edu)  
[leighlakeranger@yahoo.com](mailto:leighlakeranger@yahoo.com)  
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