



# PURCHASING POLICY AND PROCEDURES MANUAL

Adopted as Administrative Policy for all Town Employees  
Effective November 9, 2006

Town of Montreat, North Carolina  
Purchasing Policy and Procedure Manual

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## **I. FORWARD**

This purchasing policy and procedures manual is intended for use as a guide to the Town of Montreat's procurement methods and practices. When used properly and with common sense, the policies and procedures established herein will enable the Town to obtain needed materials, equipment, supplies and services efficiently and economically.

The understanding and cooperation of all employees is essential if the Town is to obtain the maximum value for each tax and utility dollar spent. While this manual does not answer all questions related to purchasing, it does provide the foundation for a sound centralized procurement system.

The basic goals of the Town's procurement program are:

1. To comply with the legal and ethical requirements of public purchasing and procurement.
2. To assure vendors that impartial and equal treatment is afforded to all who wish to do business with the Town.
3. To receive maximum value for each dollar spent by awarding purchase orders to the lowest responsible bidder, taking into consideration quality, performance, technical support, delivery schedule, past performance and other relevant factors.
4. To provide Town departments the required goods, equipment, and services at the time and place needed and in the proper quantity and quality.
5. To professionally administer the search for sources of supplies, the development of new sources, the selection of suppliers, negotiations, commitment, follow-up, and adjustments.
6. To promote good and effective vendor relations, cultivated by informed and fair buying practices and strict maintenance of ethical standards.
7. To effect maximum feasible standardization of products used within and among departments in order to minimize stock levels and obtain better prices.

If the procedures and guidelines established in this manual are followed, each department can efficiently manage, control and plan their available resources to meet present and future departmental needs and help the Town to meet these goals. Should you have any questions about this manual or our procedures, contact the Finance Officer at extension 2011.

## II. GENERAL PURCHASING GUIDELINES

### 2.1 Local Buying:

It is the desire of the Town to purchase from vendors located within Montreat and Buncombe County whenever possible. This can be accomplished by insuring that local vendors who have goods or services available which are needed by the Town are included in the competitive procurement process. The Town has a responsibility to its residents; however, to insure that maximum value is obtained for each public dollar spent. **The Town cannot and will not make procurement decisions solely on the basis of vendor residence.** Rather, the Town will endeavor to encourage local vendors and suppliers to compete for all Town business.

### 2.2 Non-Discrimination & Minority Participation:

It shall be the policy of the Town of Montreat to make all procurements on a competitive basis without regard to race, religion, color, creed, national origin, gender, age, or handicapping condition.

The Town shall make reasonable good faith efforts to seek out and solicit the participation in its procurements of minority businesses (as defined by G.S. 143-128.2(g)) and Historically Underutilized Businesses (as defined by G.S. 143-128.3).

In the case of major capital construction projects exceeding \$100,000 in total cost, funded in whole or in part by State of North Carolina, the Town of Montreat shall establish a minority business participation verifiable goal of at least 10% in compliance with the provisions of G.S. 143-128.2.

### 2.3 Planning:

Planning for purchases should be done as far ahead as possible, thereby minimizing small orders and last minute purchases. Planning will also reduce the number of trips required to obtain materials and minimize clerical and supervisory time spent on documenting purchases.

### 2.4 Buying Proper Quality:

Quality and service are as important as price; and, it is the duty of the requesting department to secure the best, most economical, quality that will meet but not exceed the requirements for which the goods or services are intended. In some instances the lowest price does not necessarily mean the lowest cost.

### III. REQUISITION & VENDOR SELECTION

#### 3.1 Requisition:

The requisition form initiates the procurement cycle. The Department Head or his/her designee must approve all requisitions within the department; the Town Administrator must also approve all requisitions.

A completed requisition with appropriate approvals is required for all purchases of apparatus, supplies, materials, or equipment, other than petty cash purchases and capital procurements. Major capital construction projects and major procurements of capital equipment are normally initiated through the Capital Improvement Plan by the Town Administrator, and do not require a requisition.

Requisitions must clearly state exactly what is being requested; the more clear and descriptive the specifications, the better. (See Specifications, Section VIII below.)

#### 3.2 Processing the Requisition Form:

The requisition, once completed, is forwarded by hand or via e-mail to the Town Administrator. If the Town Administrator has questions concerning the request, it may be returned to the Department Head or his/her designee for a brief explanation.

The receipt of the request with the required information and appropriate approvals gives the Finance Officer the authority to proceed with competitive bidding (when necessary) and to issue a purchase order to the most suitable vendor.

#### 3.3 Vendor Selection Policy:

The Town will attempt to be as fair, open, and inclusive as it reasonably can be in its procurement process. Every reasonable effort will be made to find and select vendors on a competitive basis.

Department heads (or their employees) are expected to do preliminary research to identify possible sources of supply prior to submitting a requisition. The Finance Officer will assist with the process of market research and prospective vendor identification; however, better procurement outcomes are likely if departmental personnel have first researched the market on their own.

#### 3.4 Formal Competitive (Sealed) Bids:

In accordance with North Carolina General Statute §143-129, invitation for formal bids must be used for purchases of \$90,000 and greater, or for outsourced construction and repair procurements of \$300,000 and greater. These amounts are for the final cost of the procurement; therefore, care should be taken to assure that the sealed bid procedure is utilized even for procurements that likely will fall below but close to these limits.

A few statutory exemptions are noted in Section VI below; these are generally not applicable to construction and repair procurements, and only in a few exceptional cases are any of these exemptions an available alternative for non-construction procurements of

this magnitude. In the event that an exempted alternative is available, it may be to the Town's interest that the formal competitive bid process still be undertaken, and then the best bid compared to the exempted alternative.

The formal competitive bid process may be used for procurements below these statutory thresholds at the request of the department head. The Town may elect to utilize the formal competitive bid process on outsourced construction projects greater than \$30,000 that are included in the Capital Improvement Plan. The Town Administrator may at his/her discretion elect to utilize the formal competitive bid process for other procurements below the cost thresholds; the Town Council may also elect to mandate the use of the formal competitive bid process for any procurement. The process is as follows:

- a) It is assumed that major procurements of this magnitude will already have undergone extensive research and planning prior to the competitive bid phase. Most items of this size will have been included on the Town's Capital Improvement Plan. **Town employees are warned to exercise caution in their contacts with potential vendors during this research and planning phase.** It is understood that some preliminary market research may be necessary to identify available and feasible options and to develop budget proposals and procurement specifications. **However, it is important that employees not cross the line and begin discussing pricing with vendors in a manner that might be construed as negotiation. Furthermore, employees should exercise care to avoid the appearance of favoritism toward any one or a few potential vendors.** To avoid these dangers, it is recommended that other units of government be contacted to identify similar procurements that have recently been done; these can be used to develop specifications, identify potential bidders, and approximate the budget required to support the anticipated procurement.
- b) Once funding for the procurement has been included in the budget, the Town Administrator will authorize the requesting department head and the Finance Officer to proceed with the competitive bid process. The requesting department head will normally be responsible for developing preliminary specification. Once these have been developed, it is recommended that a pre-solicitation conference be held with potential vendors. The draft specifications should be reviewed with the vendors at this time. A pre-solicitation conference provides an opportunity to identify any potential problems or pitfalls early in the process, thus minimizing the risk that a competitive bid will have to be re-done. Every reasonable effort should be made to identify all potential bidders and to invite them to the pre-solicitation conference. Notice of the pre-solicitation conference should also at least be posted at the Town office and on the Town's website; if funding allows, advertisement in a local newspaper of record is also advisable but not mandatory. **Discussions during the pre-solicitation conference should not touch upon pricing to assure compliance with anti-trust statutes.** However, as the Town's budget is a matter of public record, it is permissible to disclose to the potential vendors the amount of budget authority for the procurement, and to ascertain how many vendors are potentially interested in submitting a bid. Lack of interest may be an indication that an unrealistic budget has been set for the procurement, and should be re-evaluated before proceeding further.
- c) After the pre-solicitation conference, the department head is to develop final

specifications for the procurement. These should then be submitted to the Town Administrator and Finance Officer for review.

- d) Once the specifications have been developed and reviewed, the Finance Officer will then develop the Invitation to Bid Announcement and schedule the bid opening. This will be reviewed by the department head and Town Administrator prior to issuance. The Invitation to Bid will then be sent to all prospective bidders that had been identified through the previous steps above. The Invitation to Bid Announcement will also be posted at the Town offices, and on the Town's website, as well as being advertised in a local newspaper of public record. Per G.S. 143-129, the published advertisement must appear a minimum of seven days prior to the scheduled bid opening; it will be the policy of the Town to try and provide a reasonable period for vendors to prepare and submit their bids, in the belief that this will provide a better outcome for the Town.
- e) In addition to the pre-solicitation conference, the Town may also elect to convene a pre-bid conference, to be held at the Town offices at any convenient time during normal business hours between the publication of the advertisement and the scheduled bid opening. The date, time, and location of this pre-bid conference must be included in the Bid Invitation and advertisements. It is recommended: 1) that a pre-bid conference be utilized for large and complex procurements; 2) that a sufficiently long time period be allowed between the advertising date and the pre-bid conference to assure good attendance by prospective bidders; and 3) that a sufficiently long time period be allowed between the pre-bid conference and the sealed bid opening to assure good responses from the prospective bidders. **Town employees are warned to not discuss any aspects of the bid with any potential vendor during the period between the Invitation to Bid Announcement and the sealed bid opening, with the exception of the pre-bid conference. Bidder inquiries should be directed to the Finance Officer or the Town Administrator.**
- f) Responding vendors will be instructed to submit sealed bids. **No employee is to open a sealed bid;** any envelopes indicated as being a sealed bid must be immediately given to the Finance Officer, who will log receipt of the bid and store it unopened in a secure location. **If an improperly marked envelope is accidentally opened, the Finance Officer must be notified immediately;** the Town will either notify all vendors of the incident, or cancel and re-do the bid, depending upon the circumstances.
- g) The sealed bid opening will be an open public meeting, either at the Town offices or at another location used for public meetings. The bid opening should be conducted by two Town employees; normally, the Finance Officer and either the Town Administrator, Town Clerk, or department head will be in attendance. As each bid is opened, the bidder's identity and bid amount should be announced, and logged. These bids become public documents and are open to public inspection, but are not to leave the custody of the Town's officers. Reasonable requests for brief examination at the bid opening will be accommodated if possible; requests for photocopies will follow normal Town procedures.
- h) It is normally anticipated that the Town staff will need time to evaluate all bids

once opened. It shall be the responsibility of the department head to compare each bid to specifications and to determine whether or not the bid meets the Town's requirements. The Finance Officer will evaluate and rank all responsive bids on the basis of price. The Finance Officer and department head will then review their findings with the Town Administrator, and develop a recommendation to be presented to the Town Council. The Town Council will review the bid results, and award the contract based upon the staff recommendation.

- i) Upon Town Council approval of the recommendation, the Finance Officer shall initiate the purchase order and contact the successful bidder(s).

### 3.5 Requests for Quotes/Proposals/Qualifications:

In accordance with North Carolina General Statute §143-131, a Request for Written Quotation must be used for purchases from \$30,000 up to \$89,999.00 (or to \$299,999 in the case of construction) with or without advertising. This procedure may also be used for procurements below \$30,000 at the discretion of the department head. The Town Administrator may also elect to use a Request for Quotation/Proposals/Qualifications at his/her discretion, or the Town Council may mandate its use for a specific procurement. In certain circumstances, a Request for Proposal or a Request for Qualifications may substitute for a Request for Written Quotation.

A Request for Written Quotation is a form issued by the Finance Officer to all vendors that have been identified as being likely or promising suppliers of the goods or services being procured. A written response is requested, but not in the form of a sealed bid. Requests for written quotation are normally used for commodities or other standardized goods or services, and an "apples to apples" comparison can be made. Note that in cases where a source of supply is available from one of the exempt categories listed in Section VI below, it may still be in the Town's interest for written quotations to still be requested from other vendors to verify that the exempt source is indeed the best value for the Town.

A Request for Proposal is similar but more open ended. It is used where a number of different or dissimilar or customized options are available from vendors – in effect, an "apples to oranges" comparison. An RFP allows factors besides price to be taken into consideration.

A Request for Qualifications is used in the procurement of professional services. Price is typically a secondary consideration, as the total cost of the engagement will depend upon the total number of billable hours, which may not be known with accuracy in advance. The focus of a Request for Qualifications is on the education, professional certifications, capacity, experience, and references of the professional service provider.

The process for all three requests is as follows:

- a) As in the case of the sealed bid process, it is assumed that major procurements of this magnitude will already have undergone extensive prior research and planning. **Town employees are warned to exercise caution in their contacts with potential vendors during this research and planning phase.** It is understood that some preliminary market research may be necessary to identify available and feasible options and to develop budget proposals and procurement

specifications. **However, it is important that employees not cross the line and discuss pricing with vendors in a manner that might be construed as negotiation. Furthermore, employees should exercise care to avoid the appearance of favoritism toward any one or a few potential vendors.** To avoid these dangers, it is recommended that other units of government be contacted to identify similar procurements that have recently been done; these can be used to develop specifications, identify potential bidders, and approximate the budget required to support the anticipated procurement.

- b) Once funding for the procurement has been included in the budget, the Town Administrator will authorize the requesting department head and the Finance Officer to proceed with the Request process. As with formal sealed bids, it may often be helpful to hold a pre-solicitation conference with potential vendors.
- c) After the pre-solicitation conference (if any), the department head is to develop final specifications for the procurement. These should then be submitted along with a requisition to the Town Administrator and Finance Officer for review.
- d) Once the specifications have been developed and reviewed, the Finance Officer will then develop a Request for Written Quotation, a Request for Proposal, or a Request for Qualifications, depending upon the nature of the procurement and the appropriateness of the procedure. The draft document will be reviewed by the department head and Town Administrator prior to issuance. The Request for Written Quotation, Request for Proposal, or Request for Qualifications will then be sent to all prospective vendors that had been identified through the previous steps above. North Carolina statutes do not require any advertising for these procurement methods at this level of expenditure.
- e) A pre-bid conference is normally not utilized for this procurement level; if preliminary consultation with prospective vendors is needed, a pre-solicitation conference should be held instead. **Town employees are warned to not discuss any aspects of the procurement with any potential vendor during the period between the issuance of the Request for Quotes/Proposals/Qualifications and the award of contract. Vendor inquiries should be directed to the Finance Officer or the Town Administrator.**
- f) Responding vendors will be instructed to submit their responses in writing to the Finance Officer, who will log receipt of the response and store it in a secure location until a reasonable time has transpired for the receipt of responses from prospective vendors. The responses do not become public documents and are not open to public inspection until a contract has been awarded.
- g) It is normally anticipated that the Town staff will need time to evaluate all responses once received. It shall be the responsibility of the department head to compare each response to specifications and to determine whether or not the bid meets the Town's requirements. The Finance Officer will evaluate and rank all responses on the basis of price. The Finance Officer and department head will then review their findings with the Town Administrator, and develop a recommendation to be presented to the Town Council. The Town Council will review the responses, and award the contract based upon the staff

recommendation.

- h) Upon Town Council approval of the recommendation, the Finance Officer shall initiate the purchase order and contact the successful respondent.

### 3.6 Informal Quotes:

In accordance with North Carolina General Statute §143-131, purchases of less than \$30,000 will be made in the open market with or without necessary resort to formal invitation for bids or request for quotations. Unless the procurement is utilizing one of the exemptions listed under Section VI, requesting departments will normally be expected to obtain prices from at least three competitive sources. The process is as follows:

- a) It is understood that in many cases procurements in this category will not necessarily be planned far in advance. When a need arises for some good or service falling below the \$30,000 threshold, the department head will first be responsible for planning and prioritizing to assure that the department's budget is not exhausted before the end of the fiscal year.
- b) Assuming that adequate budget funds are available for the anticipated purchase, the department head should then define what is needed. It is not necessary to develop formal specifications to the extent required for sealed competitive bids. Nevertheless, some thought should be given as to what really is needed. Limitation to a single brand name or a single model should be avoided unless compelling justification can be provided.
- c) Under the Informal Quote process, market research and quotation solicitation occur simultaneously. It is expected that the department head (or his/her employee) will contact several vendors (at least three, if possible), discuss the Town's needs, and identify available products or services available from the vendor that will best meet the Town's needs; a written price quote should then be requested from the vendor. Quotes that are transmitted by fax or email are acceptable. Photocopies or printouts of standard price lists, catalogues, advertisements, or other published sources of competitive price are also acceptable. If quotes can only be obtained by telephone, the requesting department must include a written record of the phone conversation (contact info, date and time of call, details of quote). **Employees are cautioned to refrain from divulging to one vendor price quotes obtained from another vendor.** The quotes do not become public documents and are not open to public inspection until a contract has been awarded.
- d) Once the department head has received at least three quotes (or less, with justification), the Requisition and quotes are to be submitted to the Town Administrator for approval. The Town Administrator may require additional documentation or justification for purchases on a case-by-case basis.
- e) Upon Town Administrator approval, the requisition and supporting documentation shall be forwarded to the Finance Officer, who shall initiate the purchase order and contact the successful vendor.

## IV. PURCHASE ORDERS

### 4.1 The Purchase Order Process:

To be valid, a Town Purchase Order must be completed and signed by the Town Administrator acting as a Deputy Finance Officer or by the Finance Officer. Except for Capital Improvement Plan procurements, **purchase orders will not be issued without a properly executed requisition**. A purchase order is a contract between the Town and a vendor and is not binding until accepted by the vendor. The issuance of purchase orders by unauthorized Town employees or officials will not be recognized by the Town and payment of these obligations will not be approved. Obtaining supplies, materials, equipment or services without a purchase order is also an unauthorized purchase. (Except in emergency situations as outlined in Section 6.6.) **Unauthorized purchases are classified as a personal expense and will be paid for by the employee.**

The purchase order is a numbered four part form with copies to be distributed as follows:

Vendor Copy:	Mailed to vendor
Department Copy:	Filed with copy of Requisition in departmental files.
Accounting Copy:	Held for matching with invoice
Purchasing Copy:	Filed sequentially with a copy of the Requisition

In order to properly process the vendor's invoice(s) for payment, the packing slips must indicate the purchase order number, be signed and forwarded to the Finance Officer. This must be done immediately after the item(s) have been received, inspected and accepted by the user department.

### 4.2 Change Orders:

In order to change, modify, or cancel an existing purchase order, the user department must initiate a Change Order Form (Exhibit C) with the Department Head's or his/her designee's approval. All pertinent information needed to make changes should be completed. The change order is to be forwarded to the Finance Officer for review and approval. The Finance Officer will be responsible for the distribution of paperwork to the vendor and requesting department. The Town Council must approve change orders (in excess of the contingency amounts) for purchases and or contracts for which it originally awarded.

#### **Change orders will not be allowed:**

- 1. That would alter the procurement procedures that were used in the original process. (i.e., from informal to formal).**
- 2. After the scope of services have been rendered or materials have been received.**
- 3. Would increase a blanket purchase order.**
- 4. Would add additional items to the purchase order.**

**Change orders are not needed when the dollar amount of the change for a line item will not be exceeded by 10% of the original amount.**

## V. AVAILABILITY AND TRANSFER OF BUDGETARY FUNDS

### 5.1 Policy:

It is the policy of the Town of Montreat to require a Request for Transfer of Funds for any purchase or commitment of Town funds for which there are insufficient funds available in the budgetary account against which a purchase or commitment is to be applied. Transfers of Funds are not allowed for the purpose of making it possible to spend all appropriations. Exhibit D is a sample Request for Transfer of Funds Form.

### 5.2 Authority:

The Department Heads are authorized to make certain changes among operating expenditure line items, (i.e. non-capital and/or non-personnel related items), in the budget of a department, (department as defined in the annual budget authorization of Town Council), when he/she feels the change would be in the best interest of the Town.

### 5.3 Responsibility:

Transfer of Funds must be requested by the Department Head or his/her designee and forwarded to the Town Administrator before any commitments are approved against an expenditure line item which would exceed the amount budgeted for that particular line item.

Requests should be stated in even \$50 increments (i.e. \$50, \$100, \$150, etc.).

The Town Administrator is authorized to inquire about the appropriateness of any and all Request for Transfer of Funds. After review and approval of the Request, the Town Administrator shall attach a copy of this form to the corresponding Request to Purchase and forward the Request for Transfer of Funds Form to the Finance Officer or his/her designee.

### 5.4 Encumbrances:

In order to assure compliance with the pre-audit requirements of G.S. 159-28, once a requisition is approved and a Purchase Order issued, the Finance Officer shall transfer an amount equal to the authorized purchase from the budget of the line item(s) funding the purchase to a special Encumbrance line item. This will effectively reduce the amount of remaining available budget to be spent, and assure that purchases do not result in a line item budget being exceeded. Transferring the amount to an encumbrance account within the department's budget will also have the effect of not changing the amount of total budget allocated to that department.

Once the procured items have been received and the Purchase Order approved for payment, the Finance Officer will reverse the previous encumbrance, restoring the line item to its previous balance. This will assure that sufficient budgetary funding exists to cover the purchase. In the case of partial receipts and payments, an appropriate partial amount will be transferred.

## VI. EXEMPTIONS TO COMPETITIVE PROCUREMENT

We realize that even the informal quote procedure can be inconvenient and time consuming. Fortunately, North Carolina law allows some exemptions:

### 6.1 Services (except Architectural, Engineering, Surveying & Construction Mgmt):

North Carolina law only requires competitive bidding for two categories of contracts: contracts for the purchase or lease-purchase of “apparatus, supplies, materials, and equipment” and contracts for construction or repair work. With the exception of Architectural, Engineering, Surveying, and Construction Management at Risk services (which are covered by special statutory requirements), North Carolina is silent with regard to the procurement of anything not falling within the above categories, i.e., services. The list that follows is not exhaustive, but is an example of the types of services that are exempted from competitive procurement procedure. However, it is strongly recommended (and the Town Administrator or Town Council may elect to require) that a Request for Proposal or Request for Qualifications process be used for many of these every three to five years.

- Accounting services (however, the selection of an auditor requires special RFP procedures and LGC approval.)
- Advertising (legal ads, radio announcements, etc.)
- Association Memberships and Dues
- Automotive Maintenance and Repair services
- Banking services (however, the use of RFPs every few years is recommended)
- Custom computer programming (not including “off-the-shelf” software)
- Demolition services (if not part of a construction project)
- Equipment Maintenance and Repair services (NOT repairs to constructed improvements)
- Insurance services
- Janitorial services
- Legal Services (Use RFP or RFQ every few years)
- Medical Examinations
- Postage and Shipping
- Recycling services
- Rental or lease of buildings or equipment (but NOT Lease-purchase)
- Service contracts
- Solid Waste Disposal services
- Subscriptions
- Training and Development
- Travel reimbursements
- Utilities – telephone, electric, etc.

### 6.2 Architects, Engineers, Surveyors, Construction Management at Risk:

Under the provisions of G.S. 143-64.31-32, all NC units of government are exempted from the competitive procurement requirements for architects, engineers, surveyors, and construction managers at risk for any engagements not exceeding \$30,000. Above this

threshold, only a Request for Qualifications procedure is to be used, and the procurement selection made solely on the basis of qualifications. Under this statute, the Town of Montreat also has the sole discretion to exempt itself from these requirements altogether by stating as a matter of public record “the reasons therefore and the circumstances attendant thereto.”

### 6.3 Land:

For the same reasons as in 6.1 above, land does not fall within the statutory categories requiring competitive procurement, and thus is exempt. By its very nature, land is in any case a “sole source” procurement.

### 6.4 Gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, natural gas:

Purchases of these items are exempt [G.S. 143-129(e)(5)] from formal competitive sealed bid requirements regardless of the quantity or cost procured. The informal quote procedure should still be used for these, however, if a bulk purchase is being made.

### 6.5 Purchases from other units of government:

Local governments are allowed to procure apparatus, supplies, materials, or equipment without competitive bidding if purchased from any federal, state, or local unit of government [G.S. 143-129(e)(1)]. This includes the purchase of any surplus property, and also the purchase of any new goods produced by prison industries, for example. Sources include:

N.C. Corrections Enterprises: <http://www.doc.state.nc.us/eprise/index.htm>

N.C. State Surplus: <http://www.ncstatesurplus.com/ssp/public/ssphomepage/ssp.htm>

N.C. Federal Surplus Property: <http://www.doa.state.nc.us/fsp/fsp.htm>

GSA Personal Property Surplus: <http://www.surplussales.gsa.gov/>

GSA Property Auctions: <http://gsaauctions.gov/gsaauctions/gsaauctions/>

GovDeals: <http://www.govdeals.com/eas/>

### 6.6 Emergency Purchases:

North Carolina law provides for an exception to the requirement for competitive bidding “in cases of special emergency involving the health and safety of the people or their property.” [G.S. 143-129(e)(2)] The courts have held that for this exemption to apply:

- 1) The emergency must be present, immediate, and existing, not merely feared or anticipated;
- 2) The emergency must be unforeseen and could not be reasonably planned for in advance;
- 3) Other temporary measures available to the Town of Montreat will not suffice to address the emergency without the procurement; and
- 4) The Town of Montreat has not failed to take reasonable and proper precautions to prevent the need for an emergency purchase.

Requests for emergency purchase authority that cannot be justified under these criteria may not be approved.

A request for emergency purchase authority requires the passage of a resolution by the Town Council setting out the facts constituting the emergency and authorizing the purchase. While this should preferably be done prior to the purchase when possible, the nature of some emergencies may preclude this; in such cases the Town Council should be convened as soon as possible to ratify the emergency purchase. The department head making the procurement should consult with the Town Administrator immediately to discuss the scheduling of a Town Council meeting.

The user department shall exercise good judgment and use established vendors when making emergency purchases. Emergency orders are always costly. Vendors usually charge top prices if supplies or services must be obtained on an emergency basis.

During working hours, the following procedure should be used for emergency purchases:  
Contact the Finance Officer and give all pertinent information to obtain a purchase order. The information needed will include vendor name, item(s) to be purchased with quantities, expenditure account to which the item(s) will be charged and the reason for the emergency purchase. After verifying available funds, a purchase order number will be issued for the expenditure and a confirming purchase order will be mailed to the vendor. Should the purchase over encumber the account balance, a Request for Transfer of Funds form will need to be completed as soon as possible.

After working hours, the following procedure should be used for emergency purchases:  
The packing slip or invoice received should be coded with the account(s) to be charged and signed. Please attach a brief explanation of the nature of the emergency, verify funds available completing a Request to Transfer Funds form if needed and forward immediately to the Finance Officer for payment.

Emergency purchases, although sometimes necessary, are costly both in time and money. The use of emergency procedures should be limited and will be monitored for abuse.

#### 6.7 Group or Pooled Government Purchasing Programs:

Under North Carolina law [G.S. 143-129(e)(3)], the Town of Montreat can participate in group or pooled procurement programs with other units of government. This includes not just other municipalities, but also counties, schools, and other types of governmental units both within and outside North Carolina. While some sort of formal competitive procurement process must be undertaken by the group, it does not necessarily have to fully comply with every detail of North Carolina requirements.

The Town of Montreat will be actively seeking out opportunities to participate in group or pooled Finance Officer with other units of government.

#### 6.8 Sole Source of Supply:

In the event there is only one vendor capable of providing a particular good or service, the competitive pricing procedures outlined in this manual may be waived. This sole-source exemption is only available when:

- 1) Performance or price competition for a product are not available; or
- 2) A needed product has been confirmed to be available from only one source of

supply; or

3) Standardization or compatibility is the overriding consideration.

Whenever a Department Head or his/her designee determines to purchase goods or services from a "sole source", he/she must attach to the request a written justification (with supporting documentation if available) explaining why only one company or individual is capable of providing the goods or services required. Under the provisions of G.S. 143-129(e)(6), a sole source procurement **must** be approved **in advance** by Town Council.

6.9 State Contract for Information Technology Goods & Services:

Under the provisions of G.S. 143-129(e)(7) and 143-129.8, the Town of Montreat can take advantage of the statewide contracts that have been negotiated by the North Carolina Office of Information Technology Services. For more information, see:

NC ITS Statewide IT Contracts:

<http://www.its.state.nc.us/ITProcurement/TermContracts/TContracts.asp>

6.10 Other State Contract purchases:

Under the provisions of G.S. 143-129(e)(9), the Town of Montreat can also utilize the statewide term contracts awarded by the NC Department of Administration. Note that the vendor is not automatically obligated to extend to us the same terms of the statewide term contract, so the vendor should first be contacted to verify that they will extend to us these terms.

NC DOA Finance Officer & Contracts: <http://www.doa.state.nc.us/pandc/>

6.11 Purchases of Used Goods:

Under the provisions of G.S. 143-129(e)(10), there is a blanket exemption to competitive bidding requirements for all used goods. Please note that remanufactured, re-fabricated, and "demo" items are not considered used under this exemption. There are a wide range of possible sources of used goods including the Iwanna and other classified ads, eBay, auctions, etc.

6.12 "Piggybacking" on Previously Bid Contracts:

There is a way to let other governmental units do the work for us: it is called "piggybacking" on their previously bid contracts. Many times a vendor will sell to us under the same terms they agreed upon with another governmental unit – although this must first be confirmed. It is not necessary that the unit of government be in North Carolina or that North Carolina's statutory requirements be exactly followed, only that a reasonably similar public competitive bid process be performed.

There are some special requirements for this form of procurement [G.S. 143-129(g)]:

- The original contract must have been executed within the past twelve months (does not apply to NC statewide contracts discussed above).
- The items being purchased must be identical to as specified on the original

contract – no substitutions.

- The Town must verify that it likely will not be able to secure better terms from another vendor or through another procurement method; this can be done through some informal research, documentation of which should be attached to the requisition.
- Contracts made under this exception must be approved by the Town Council at a regularly scheduled meeting; notice of intent to award the contract without bidding must be published no less than ten days prior to the meeting. (Does not apply to NC statewide contracts discussed above.)

In addition to contacting various nearby units of local government, there is also a national program to facilitate “piggybacking.” US Communities enables us to piggyback on nationwide contracts for a number of goods that are commonly used by municipal governments. Because these contracts were negotiated as large-volume purchases, we gain the benefit of higher negotiating leverage than we would have on our own.

US Communities: <http://www.uscommunities.org/>

#### 6.13 Nonprofit Work Centers for the Blind and Severely Disabled:

NC law [G.S. 143-129.5] allows the Town to purchase any goods or services directly from nonprofit work centers for the blind and severely disabled without going through a competitive bid process. Nearby work centers include:

Blue Ridge Area Foundation, 838 Riverside Dr, Asheville, 251-4350  
Foothills Industries, 652-4088: [www.foothillsindustries.com](http://www.foothillsindustries.com)

For a complete list of NC nonprofit work centers, contact the NC Association of Rehabilitation Facilities:

NCARF: <http://www.ncarf.com/index.htm>

## VII. SPECIAL PROCUREMENT PROCEDURES

### 7.1 Blanket Purchase Orders:

Blanket purchase orders may be issued to selected vendors for the procurement of items that the Town normally uses in quantity throughout the year, but typically receives periodically rather than in one single shipment. The intent of blanket purchase orders is not to circumvent normal competitive procurement procedures; rather, the intent is to maximize the leverage of our annual purchasing volume to obtain better quantity discounts, and to maximize efficiency by reducing the need for repetitive paperwork.

Requests for blanket purchase orders must, in addition to the required information, indicate the following: items covered by the blanket purchase order, a Not to Exceed (NTE) amount in the appropriate column, and an attached listing of all personnel approved to purchase from the blanket PO. The issued purchase order will instruct the vendor that unauthorized purchases will not be allowed. It is the responsibility of the individual authorized to purchase under a blanket purchase order to insure that an unspent balance remains to cover the purchase to be made. **Any purchase that exceeds the funds available under a blanket purchase order will be classified as an unauthorized purchase.**

**Any purchases made by personnel not authorized by the blanket purchase order request will be classified as a personal expense and will be paid by the employee.**

The vendor's delivery ticket must be signed by an authorized Town employee and the purchase order number must be indicated. If the purchase is to be charged to an account other than indicated by the purchase order, the account number to be charged for the expenditure must be indicated. Departments will forward these delivery tickets immediately to the Finance Officer for payment.

### 7.2 Call-In Request for Purchase Orders:

Call-in requests for purchase orders will be used for emergency situations only. However, the Finance Officer will allow the faxing or emailing of requests for rapid expedition.

### 7.3 Purchase Order Cut-Off Date:

Due to the need to close out our accounting records at the end of each fiscal year, and due to the complications caused by having open purchase orders after June 30<sup>th</sup>, departments are requested to make every reasonable effort to submit all requisitions for the fiscal year by no later than June 1<sup>st</sup>. Requisitions submitted after June 1<sup>st</sup> and before July 1<sup>st</sup> will be reviewed by the Town Administrator and may at his/her discretion be held until the following fiscal year.

### 7.4 Procurement Calendar: Capital and Non-Capital Equipment:

To coordinate and schedule capital purchases during the fiscal year, the Finance Officer and the Town Administrator will request information from departments concerning approved capital budgets and procurement schedules each year.

The Finance Officer and the Town Administrator will review the Capital Improvement Plan to coordinate and schedule similar purchases to effect lower prices, reduce multiple purchase order processing for similar items, and more appropriately plan the procurement and remittance functions of the Town. In securing financing and maintaining the fixed asset records for the fiscal year, all capital purchases MUST be executed no later than January 15 with delivery scheduled no later than May 15, if at all possible.

#### 7.5 Petty Cash Expenditures:

A petty cash fund has been established for the purchase of expendable items (including but not limited to car washes, office supplies, etc.) costing less than \$50.00. Employees wishing to purchase items, and be reimbursed with petty cash, should obtain a petty cash form, provide a receipt for the purchase and return the cash form to the petty cash administrator for your department.

#### 7.6 Purchasing Cards

(Not presently implemented, reserved for future use)

## VIII. SPECIFICATIONS

### 8.1 Specification Development

When goods or services are procured under the formal or informal bidding process, specifications must be prepared. All specifications, should do at least four things:

- a. Identify minimum requirements
- b. Encourage competitive bids
- c. Be capable of objective review
- d. Provide for an equitable award at the lowest possible cost.

Specifications shall be as simple as possible while maintaining the degree of exactness required to prevent bidders from avoiding supplying the goods or services required or otherwise taking advantage of their competitors.

Different methods of structuring specifications include:

- a. Qualified products on acceptable vendor list
- b. Specification by blueprint or dimension sheet
- c. Specification by chemical analysis or physical properties
- d. Specification by performance, purpose or use
- e. Specification by identification with industry standards
- f. Specification by samples

### 8.2 Specification By Specific Brand or Model

All specifications utilizing a name brand must include the term "or approved equal" to avoid being restrictive and eliminating fair competition from the bidding process. If it is absolutely essential that a specific brand or model be procured, the requesting department head must submit a written justification. A photocopy will assist the Finance Officer in procuring the desired item(s).

## **IX. DELIVERY AND PERFORMANCE**

### **9.1 Delivery:**

A completed and accepted purchase order by the parties concerned must produce the intended results or objectives before it can be considered a successful or completed purchase. The terms and conditions must clearly define the delivery and performance requirements of the services, supplies or equipment.

The importance of the delivery schedule will be emphasized to the vendor. Delivery requirements will be clearly written and fully understood by all vendors. If several items are required by the purchase order, there may be a different delivery schedule for each item. It is necessary to clearly indicate the delivery location on the Request to Purchase form.

### **9.2 Partial Deliveries:**

Some purchase orders may list several items. It is possible the vendor may complete timely delivery on some items, which are referred to as "partial deliveries". Upon receipt of a partial delivery, photocopy the purchase order, attach a copy of the signed delivery receipt and forward to the Accounting Section. Due to the added complexity and potential for problems caused by partial deliveries, a reasonable effort should be made to have the vendor ship an order complete.

### **9.3 Inspection:**

Life and safety as well as successful operation of expensive equipment and supplies may depend upon how well a purchased item meets the design and performance specifications.

Goods and materials should be checked at the time of receipt for damage or defects. The inspection shall include assuring goods comply with the specifications. If damage is found or the goods fail to comply with the specifications, the item(s) shall be rejected as outlined below.

### **9.4 Rejection:**

In order to protect the Town's rights in the event of rejection, for whatever reason, the vendor shall be informed immediately. Reasons for the rejection must be documented in memo form, attached to a copy of the purchase order and forwarded to the Finance Officer in a timely manner. Finance Officer will notify the vendor of the reason for the rejection.

### **10.5 Damaged Goods:**

One of the major reasons for immediately inspecting the goods or materials upon receipt is to detect any visible damage. When it is apparent that the extent of the damage causes the goods to be worthless, they will not be accepted. It is necessary that all damage including evidence of concealed damage shall be documented by memo, attached to a copy of the purchase order and forwarded to the Finance Officer so that he/she can

inform the vendor of the damaged goods.

9.6 Latent Defects:

Latent defects may be the result of damage in transit or failure of the manufacturer to conform to specifications. Consequently, it is often difficult to fix responsibility for the defective material. If specific liability for the defect cannot be determined between the carrier, the vendor, or the manufacturer, the Town may file a claim against all parties. A memo attached to a photocopy of the purchase order must be forwarded to the Finance Officer so all parties involved can be properly informed.

9.7 Delinquencies & Discrepancies:

The procurement function is not accomplished by simply placing an order with a supplier. Satisfactory delivery must also be made. To insure delivery will be made when required, follow-up is necessary.

The Finance Officer shall on a regular basis review outstanding purchase orders to determine if vendors are delinquent in shipping the items requested. The Finance Officer shall contact these vendors concerning the delinquent delivery.

The Finance Officer shall contact vendors concerning invoice discrepancies and shall have the authorization to approve or disapprove invoice amounts.

9.8 Non-performance:

If a vendor fails to meet any requirements(s) of the specifications or terms and conditions of the contract or purchase order, the vendor can be cited for non-performance. The seriousness of non-performance will be evaluated based upon the circumstances of each violation.

## **X. VENDOR RELATIONS**

### **10.1 Vendor Evaluation:**

Good vendor relations are valuable business assets established through mutual confidence and satisfactory business relationships between buyer and seller. An important contribution toward promoting and preserving these relations is a clear understanding of the method of contract between buyer and seller.

The Finance Officer maintains a vendor file for recording the performance of vendors the Town engages in business. Should a department experience difficulties with or have a complaint with a particular vendor, document your concerns on a Vendor Performance Evaluation form provided in Exhibit E. A memo to the Finance Officer with your concerns will also suffice. Be as specific as possible, detailing the circumstances, dates, personnel involved (including titles) and phone numbers. This information will be helpful in determining if the vendor shall remain on the vendor list.

If it is felt a certain vendor should be commended for its efforts, document the circumstances on the Vendor Evaluation Form and forward to the Finance Officer.

### **10.2 Vendor Qualification & Eligibility:**

Normally, the Town will make every reasonable effort to seek out and include all potential vendors in its competitive procurement processes. If an employee is aware of a prospective vendor that should be included in the Town's bid list, the Finance Officer should be notified.

In the event that the Town has had previous bad experience with a vendor as documented under the Vendor Evaluation procedures above, the Town reserves the right to decline from actively soliciting proposals, quotes, or bids from that vendor. The Town also reserves the right to refer to said previously documented experience to disqualify a vendor during a formal competitive sealed bid process.

The Town also reserves the right to request references from and investigate the credit of any prospective vendor, and normally will do so for any new vendor with whom we have not previously done business. The Town will rely upon such references and credit checks in evaluating whether or not the Town can rely upon said vendor's performance.

### **10.3 Communications with Vendors:**

As has been previously stated above, employees are cautioned to careful when doing preliminary market research to avoid the appearance of favoritism toward any one or a few vendors.

Employees are also cautioned in their market research to not cross the line into price negotiations when a formal competitive sealed bid process or a request for quotes, request for proposals, or request for qualifications is being used. Employees must never divulge to any vendor the bid or quotation of any other vendor until the sealed bids have been opened or, in the case of other procurements, a purchase order has been awarded.

With the exception of the pre-bid conference, employees are not to have any contact with a potentially responsive bidder during the period between the issuance of an invitation to bid and the bid opening. All bidder inquiries should be referred to the Town Administrator or the Finance Officer.

Departments do not have the authorization to commit in writing, or verbally, future Town business to vendors.

Any complaints, problems, or disputes with an order or a vendor should be referred to the Finance Officer or Town Administrator for resolution.

## **XI. EXHIBITS**

Exhibit A. Requisition Form

Exhibit B. Request for Quotation Form

Exhibit C. Purchase Order Form

Exhibit D. Change Order Form

Exhibit E. Request for Transfer of Funds Form

Exhibit F. Vendor Performance Evaluation Form