

Ordinance No. 2024-08

PROCUREMENT POLICY ORDINANCE AMENDMENT

WHEREAS, the Town of Genola enacted a Procurement Policy by ordinance, establishing the procedures, standards, and rules of purchasing for the Town;

WHEREAS, there is a need for amending the Town's Procurement Policy Ordinance to update the procedures, standards, and rules of operation and service for purchasing;

NOW THEREFORE, be it ordained by the governing body of the Town of Genola, Utah:

1. Amendment by Complete Replacement of the Procurement Policy Ordinance. The Town of Genola's Procurement Policy Ordinance is hereby amended by complete replacement as set forth in the attachment affixed to this Ordinance.
2. Effective Date. This ordinance shall become effective upon publication.
3. Captions: Captions herein are for convenience only, and neither limit nor amplify the provisions of this Ordinance.
4. Repeal of Conflicting Ordinances. To the extent that any ordinances, resolutions or policies of the Town of Genola conflict with the provisions of this ordinance, they are hereby amended to be in accordance with the provisions hereof.

PASSED AND ADOPTED by the Town Council of the Town of Genola, State of Utah on the 21st day of August, 2024 by the following Vote:

	Aye	Nay	Abstain	Absent
Martin Larson	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Hale Robison	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>
Grant Lundberg	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Stan Judd	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Curtis Thomas	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

TOWN OF GENOLA:

ATTEST:

Martin Larson
By: Martin Larson, Mayor

Lucinda Thomas
By: Lucinda Thomas,
Town Clerk/Recorder



Exhibit A

**AMENDMENT BY COMPLETE REPLACEMENT OF
THE TOWN OF GENOLA PROCUREMENT POLICY**

TITLE 3 – REVENUE AND FINANCE

CHAPTER 3 PROCUREMENT POLICY

Sections:

03.03.01	Short Title
03.03.02	Purpose
03.03.03	Interpretation
03.03.04	Effect on Previous Ordinances and Maps
03.03.05	Licenses/Permits/Contracts to Conform
03.03.06	Severability of Parts of Ordinance
03.03.07	Amendments to Ordinance or Zoning Map
03.03.08	Reapplication After Denial of Request for Zoning
03.03.09	Enforcement

03.03.01 SYSTEM ADOPTED

Pursuant to Utah Code Ann. section 10-7-86 and other pertinent provisions of the laws of the State of Utah, the Town of Genola adopts and establishes a purchasing system which shall be based on the principles set out in this chapter.

03.03.02 DEFINITIONS

Unless the context requires otherwise, the terms used in this chapter, or the rules and regulations adopted pursuant to this chapter, shall have the following meanings:

ADEQUATE APPROPRIATION BALANCE: Sufficient fund balance existing in the appropriation item against which the purchase order is to be charged.

BID: An offer, submitted by a bidder, to furnish supplies, materials, equipment and other personal property and contractual services in conformity with the specifications, delivery terms and conditions, and other requirements included in the invitation for bids or otherwise required by the town.

BIDDING: The procedure used to solicit quotations on price and delivery from various prospective suppliers of supplies, materials, equipment and other personal property, and contractual services.

CONTRACTUAL SERVICES: Professional and nonprofessional service contracts entered into for the accomplishment of a particular project or a limited period of time.

EMERGENCY PURCHASE: A purchase for a significant event involving the risk of life, property or essential government service where the failure to act immediately could exacerbate the emergency situation.

ESTIMATES OF REQUIREMENTS: Forecasts of future requirements of supplies, equipment, materials and other personal property and contractual services submitted by town departments or representatives upon request of the mayor or the mayor's designee.

FORMAL COMPETITIVE BIDDING: Requires an established bid opening date and time. Only written, sealed bids are accepted. No facsimile or telephone bids are allowed. There are two (2) methods in which a vendor is invited to bid; either one of the following methods may be utilized:

- a) through a newspaper ad, with a first publication date that is a minimum of ten (10) days before the opening date.
- b) by mailing each interested vendor a bid or proposal package. A minimum of three (3) bidders, where applicable, will be solicited.

LOCAL BIDDER: A firm or individual who regularly maintains a place of business and transacts business in, or maintains an inventory of merchandise for sale in, or is licensed by, or pays business taxes to, the town at the time the bid or offer is submitted.

OPEN MARKET PROCEDURES: Purchasing goods or services from the open market by, whenever possible, obtaining at least three (3) written bids. The goal of open market procedures is to obtain substantially equal goods and services at the lowest possible price.

PUBLIC PROPERTY: Any item of real or personal property owned by the town.

PURCHASE ORDERS: Official documents used in authorizing the commitment of town funds toward the purchase of supplies, materials, equipment, other personal property and contractual services.

RELATIVE: "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

RESPONSIBLE BIDDER: A bidder who has proven by experience or information that his or her current financial resources, production or service facilities, service or reputation, and experience are adequate to make satisfactory delivery of supplies of acceptable quality, equipment or contractual services on which she or he bids; and who has not violated or attempted to violate any provisions of this chapter.

03.03.03

PROCEDURE

- A. Open Market Procedures: All purchases, regardless of price, shall be made in compliance with open market procedures.
- B. Minor Purchases: Purchases of one thousand dollars (\$1000.00) or less shall be permitted by the appropriate department head or the mayor.
- C. Purchase Orders: All services, contracts, supplies, materials, and equipment of a value of more than one thousand dollars (\$1000.00) shall be purchased with the authority of a written purchase order. Written documentation of compliance with open market procedures must accompany all purchase orders. Purchases that by their nature are made without a purchase order include travel reimbursements, training, airline reservations, hotel reservations, and membership fees. Other similar purchases may be exempted from the purchase order requirement with the authorization of the mayor.

- D. Annual Purchase Orders: Annual purchase orders may be established for standard goods and services ordered periodically by one or more departments throughout a fiscal year. Annual purchase orders are established at the beginning of a fiscal year and are valid for all purchases made during that fiscal year. Such items as pipe, fencing material, gravel, concrete, etc., are applicable. An annual purchase order may be established for a specific vendor and is only good for those specific items listed on the purchase order.
- E. Formal Bidding: If the purchase price exceeds seven thousand five hundred dollars (\$7,500.00), formal competitive bidding procedures shall be used.
 - a. Competitive Bidding: The town council shall call for competitive bids by giving reasonable notice of the town's intent to receive sealed bids, describing therein the requested property or services needed, and the place where bid blanks and specifications may be obtained as well as the place, date and time when bids will be received and/or opened.
 - b. Publication of Notice:
 - i. Sealed bids may be invited by a single publication in a local newspaper at least ten (10) days prior to bid opening and/or by mailing invitations to interested qualified bidders who have requested their names to be included on a bidders' list for the type of property or services to be purchased.
 - ii. Notice of the invitation to submit bids need not be published in a local newspaper if there are two (2) or less potential bona fide bidders in the Utah County area. As a substitute to publication, a notice of invitation to submit bids to all known local, potential bidders and any nonlocal, potential bidder listed on the bidders' list shall be mailed.
 - c. Firm Bids: All bids submitted to the town shall be open for acceptance for a period of ten (10) days following bid openings.
 - d. Rejection of Bids: The town may reject without cause any and all bids and may readvertise for bids pursuant to the procedure described in this chapter.
 - e. Performance Bonds: Before entering into a contract the town council may require a one hundred percent (100%) payment and performance bond from the successful bidder when the accepted bid amount is in excess of fifteen thousand dollars (\$15,000.00). The bond must be furnished to the town purchasing division upon awarding of a contract. A performance bond shall be required on public works construction projects.
 - f. Bid Bonds: The town council may require as a condition of bidding a bid bond or a cashier's check in lieu thereof in the amount of five percent (5%) of the amount bid. A bid bond shall be required on public works construction projects. Note: The security mentioned above may be submitted in the form of a bond, certified or cashier's check or other security satisfactory to the town.
- F. Award Of Bids: Except as otherwise provided in this chapter the town shall accept the bid of the lowest responsible bidder.

- G. Award To Other Than Low Bidder: 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 mayor and filed with the other papers relating to the transaction.
- H. Preference for recycled goods: The procurement officer or other person responsible for purchasing supplies for the town shall:
 - a. maintain for reference a copy of the current listing of recycled items available on state contracts as issued by the chief procurement officer; and
 - b. give recycled items consideration when inviting bids and purchasing supplies.
- I. Noncompliant Purchases: Purchases that are not in compliance with the purchasing system must be documented in writing. The documentation must include the reason for the noncompliance and must be signed by the department head, and the mayor. Failure to follow the purchasing system may result in disciplinary action.

(Amended August 21, 2024, Ordinance 2024-08)

03.03.04 **CONTRACTS**

- A. Contractual Service Contracts; Procedure: Contracts for contractual services may be awarded by use of open market procedures or competitive bidding. Contracts for more than one year may be approved by the town council.
- B. Award Of Contracts: Contracts shall be awarded by vote of the town council based on the evaluation of professional qualifications, service ability, cost of service and other criteria deemed applicable by the mayor and concerned department heads.

03.03.05 **EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENTS**

- A. Contracts Not Adaptive To Competitive Bidding: Contracts which by their nature are not adaptive to competitive bidding, such as contracts for repairs and contracts for items which may, as a practical matter, only be purchased from a single source, and contracts for repairs or additions to equipment owned by the town, which may be more efficiently added to by a certain person or firm, shall not be subject to the competitive bidding requirements of this chapter. When the foregoing conditions exist, a written justification for the exemption to competitive bidding shall be approved by the mayor and filed with the purchasing documents.
- B. Library Purchases: The purchase of library books, records, tapes, films, publications, periodicals and subscriptions are specifically exempted from the requirements of competitive bidding.
- C. Auction, Closeout, Bankruptcy Sales: If the mayor determines that supplies, materials or equipment can be purchased by any public auction, closeout sale, bankruptcy sale or other similar sale, and makes a finding that a purchase at any such auction or sale will be made at a cost below the market cost in the community, the mayor may authorize the purchases.
- D. Exchanges: The town council may by agreement exchange supplies, materials, equipment or services with other public agencies, or the town council may exchange the property or services with private persons or entities when special circumstances exist which indicate that

such an exchange would prove more advantageous to the town than a simple purchase for cash.

- E. **Interlocal Agreements In Letting Of Contracts For Commodities Or Services:** The town shall have the power to enter into joint purchase agreements with any or all other public agencies within the state for the purchase of any commodity or service, where it is determined by the mayor to be in the best interest of the town.
- F. **Emergency Purchases:** To qualify as an emergency purchase, the purchase must be ratified, after the emergency, by the department head and the mayor as a qualifying emergency. The department must notify the town council of the emergency purchase by the end of the first business day following the event.
- G. **Open Market Procedure:** If upon inviting or receiving bids under the formal bidding process, the town council determines that none of the bidders can give a competitive bid because of the delay between the date of the bid and the date required for delivery of the goods or services, then the town council may utilize the open market procedure to obtain the lowest price for those particular goods or services.
- H. **State Contract:** Goods and services purchased from the Utah state contract are exempt from the competitive bidding requirements. Goods and services that have been competitively bid by another political subdivision of the state of Utah within six (6) months may also be exempt from the competitive bidding requirements at the discretion of the town council, provided the bidding requirements followed by the political subdivision are substantially in compliance with the requirements described in this chapter and local bidders were invited to participate.

03.03.06 **BUDGET OFFICER**

Pursuant to the state code, the budget officer of the town is the mayor. The budget officer or the budget officer's representative shall approve and sign all requisitions in an amount over fifteen thousand dollars (\$15,000.00) for the purpose of determining the existence of budget authorization for the proposed purchase and an adequate appropriation balance including encumbrances.

03.03.07 **TOWN RETAINS CERTAIN DISCRETION**

Notwithstanding anything in this chapter to the contrary, the town shall retain the discretion to construct public works and other new improvements using its own personnel and equipment without requiring bids as allowed by Utah law.

03.03.08 **PURCHASES OF REAL PROPERTY**

Negotiations for purchases of real property shall be directed by the mayor or the mayor's representative. No purchases may be made unless it appears as an expenditure item in the town budget and in no case will it be purchased for an amount more than that projected in the budget unless the budget is reopened to revise the projected expenditure item and the mayor so approves.

03.03.09 **PROHIBITED ACTS; DISCIPLINARY ACTION**

- A. Collusion Among Bidders: Any agreement or collusion among bidders or prospective bidders to either buy or sell, in restraint of freedom of competition, be it an agreement to bid a fixed price, or otherwise, shall render the bids of such bidders void and subject them to possible exclusion from future bidding with the town as determined by the mayor to be in the best interest of the town.
- B. Purchasing Procedures: No officer or employee of the town shall make any purchase for or on behalf of the town of any material, goods, wares or supplies of any kind whatsoever except through purchasing procedures as specified in this chapter. It shall be a breach of duty on the part of any officer or employee of the town to make any purchase in any manner other than through specified purchasing procedures. If such purchases are made, the town shall not be bound and such officer or employee shall be personally responsible for payment. However, the provisions of this section shall not apply to emergency purchases and other purchases as provided for in this chapter.
- C. Disclosure of Formal Bid Contents: Any disclosure in advance of the opening of bids, of any information contained in the sealed or formal bid, made or permitted by a town officer or employee may render each bid void either by the town or the parties submitting bids. Appropriate disciplinary action shall be taken against both the persons revealing the information and the persons using the information. Notwithstanding anything in this chapter to the contrary, all bids submitted by bidders taking advantage of any information revealed contrary to this section shall at once become null and void.
- D. Nepotism: Purchase of supplies or equipment from a relative of a department head shall not be permitted and shall be cause for disciplinary action. However, if a relative of a department head is a primary vendor of a needed commodity or service then the town council may use that vendor after full disclosure of the relationship.
- E. Personal Purchases: Other purchases of supplies or equipment for personal use shall not be permitted and shall be cause for disciplinary action.

Last Amended 08-21-2024, Ordinance 2024-08

¹ Previous Versions and Ordinances