

Resolution No. 14 Series 2020

**A Resolution of the Crested Butte Town Council Amending the Town of Crested Butte's Purchasing Policy**

WHEREAS, the Town of Crested Butte, Colorado (the "Town") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado; and

WHEREAS, sections 4-6-10 and 4-6-20 of the Municipal Code of the Town of Crested Butte require the Town Council to adopt and amend from time to time a purchasing policy by resolution for goods, services and public improvements; and

WHEREAS, the COVID-19 Pandemic necessitates amendments to the Town's purchasing policies to implement more stream-lined practices and ensure that local vendors are given preference when the Town purchases goods, services and contracts for the construction of public improvements; and

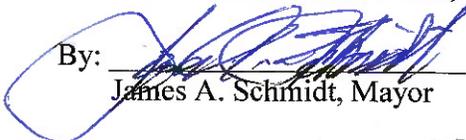
WHEREAS, purchasing policies that give a preference to local vendors serves a public purpose by reinvesting tax dollars into the community.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT:

1. **Purchasing Policy.** The Town hereby adopts and shall implement the Purchasing Policy attached hereto as **Exhibit A** ("Purchasing Policy").
2. **Repeal and replace.** This Resolution shall have the effect of repealing and replacing earlier purchasing policies that may have been adopted by Council or the Town Manager.
3. **Effective date.** The effective date of this Resolution shall be the date that this Resolution is adopted by the Town Council.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL  
THIS 4<sup>th</sup> DAY OF May, 2020.

TOWN OF CRESTED BUTTE, COLORADO

By:   
James A. Schmidt, Mayor

ATTEST

  
Lynelle Stanford, Town Clerk

(SEAL)



**Purpose.** The purpose of these policies and procedures is to provide for the fair and impartial treatment of all persons involved in purchasing by the Town of Crested Butte. The intent is to maximize the purchasing value of public funds. It is also intended to encourage effective economic competition while providing safeguards for maintaining a purchasing system with quality and integrity. Further the policy will ensure cash is disbursed only for authorized expenditures after the receipt of acceptable goods or services is verified and that all expenditures are properly recorded in the accounting system and reported in financial reports.

**Goals and objectives.** The following goals and objectives are intended to be minimum standards which shall apply to the Town of Crested Butte's purchase of goods and services:

- A. Comply with and the Town of Crested Butte Home Rule Charter.
- B. Provide the Town the best economic advantage, while maintaining the highest quality of services and goods necessary to accomplish the functions of municipal government.
- C. Provide a uniform procedure for the purchase of materials, equipment, and services.
- D. Consolidate purchases to achieve maximum economic benefits, wherever possible.
- E. Purchase goods and services from local vendors, using local preference when their goods and services are economically competitive and their quality is comparable to other goods and services.
- F. Require all vendors and other suppliers to fulfill all terms and conditions of contracts and purchase orders.
- G. Secure all applicable federal and state tax exemptions appropriate to purchases or contracts for services.
- H. Assure applicability to all Town departments, including elected offices.

**Responsibility.** The Finance Director shall be the purchasing agent for all departments, offices, and divisions of the Town. The Finance Director may recommend such further written procedures as are necessary to implement the policies stated herein.

Expenditures are authorized by the Town Council in the budget process. Individual purchases of goods or services included in the approved budget shall be authorized by the Town Manager, head of the department to which the item(s) will be charged or an authorized employee. Prior to payment for goods and services, the purchaser must provide the Finance Department evidence of receipt and approval of the purchase.

Authority to Purchase. The following personnel will have the authority to purchase for the Town of Crested Butte:

A. The Finance Director, in cooperation with the Town Manager, are hereby designated as the monitoring agents for the acquisition of goods and services, in accordance with the budget approved by the Town Council. The Finance Director may choose to further delegate purchasing authority.

B. Town Council or the Town Manager must approve and sign the following types of contracts:

1. Multi-year contracts of any nature;
2. Contracts for service;
3. Real estate contracts;
4. Purchase of goods or services over \$50,000.

C. Any requests to purchase goods or services of \$1,000 or greater that were not included in the approved budget must be approved by council prior to committing funds.

D. The Town Manager and department heads must manage their expenditures within the level of detail as approved by council. For example, if council approves total expenditures for a department, staff may allocate those dollars differently between line items. However, if council approves expenditures by type (personnel, supplies, purchased services, etc.), staff must manage dollars within those categories.

**Tax-Exempt Status.** As a government municipality, the Town is exempt from sales and use taxes. All personnel with purchasing authority should be made aware of this to ensure the Town is not billed for taxes. A copy of the Town's tax exempt certificate may be obtained through the finance department.

**Ethical relationships with vendors and suppliers.** All Town personnel are obligated to establish and maintain ethical relationships with all vendors or suppliers of Town goods and services. Acceptance or solicitation of entertainment, loans, gifts, or special consideration from vendors or suppliers for personal benefit by Town personnel is prohibited. The following are examples of unacceptable Town employee relationships with vendors or suppliers. The list is not intended to be all-inclusive. Town employees must also consider the appearance of fairness and propriety in their relationships with Town vendors or suppliers.

A. Seeking or accepting directly from any persons, partnerships, corporations, or other business entities or representatives which are doing or seeking to do business with the Town of Crested

Butte, services, cash or loans, vacations or pleasure trips, or any gifts exceeding the value of \$50.00.

B. Knowingly over- or underestimating the requirements of this policy and/or bids or failing to disclose the existing requirements in order to avoid doing business with a particular vendor or supplier.

C. Misrepresenting competitors' prices, quality, or services in order to obtain concessions from vendors or suppliers.

D. Having personal investments in any business entity which will create a substantial conflict between private interests and public duties when the Town of Crested Butte employee is involved in making a particular purchasing decision.

Inexpensive advertising items bearing the name of a vendor, such as pens, pencils, paper weights, cups, caps, candy, calendars, etc., are not considered articles of value or gifts in relation to this policy.

**Purchase requisitions.** A purchase requisition formalizes (internally) the approval to purchase goods or services from a specific vendor. The Town of Crested Butte requires a requisition for any purchase of \$5,000 or greater. Procedure:

A. A purchase requisition can be in the form of a vendor quote or purchase order. Purchase requisitions must include the following:

1. Requisition date;
2. Item to be purchased (including item number, quantity, and description);
3. Account number to be charged;
4. Amount – projected cost of purchase;
5. Shipping costs; and
6. Authorized signature.

B. After the purchase requisition is completed, approved and signed (can be e:mail approval) by the department head or designee, the Finance Director or Town Manager must co-sign for any requisition over \$5,000. The approved purchase requisitions (copy) are filed (vendor file and/or requisition e:folder). It is the responsibility of the department to keep a copy of the purchase requisition and administer the purchase (order with vendor, acknowledge receipt, accept and approve invoice for interim and final payments).

**Cooperative purchasing.** This is the process of bidding like requirements with other governmental entities to purchase in quantities. This practice may sometimes be beneficial for all entities involved as it may result in lower per-unit costs, while still assuring bid requirements are met. When cooperative bidding is done, each entity shall supply its own requirements; however, one entity shall be chosen to administer the bid process. Bid awards are to be determined either on an individual basis or as a total, whichever is the most cost-effective to all bidders.

**State bid awards.** State bid awards made by the Purchasing Division of the state of Colorado are available for use by local government agencies to purchase goods and services at a reduced price due to quantity discounts. Using the state bid awards does not require the bidding process by individual entities.

**Bulk purchasing.** Whenever feasible, purchasing shall be done in bulk in order to take full advantage of discounts. Departments shall be responsible for anticipating needs in a timely fashion in order to consolidate and expedite purchasing of the same type of supplies or contracts. Examples include cleaning supplies, fuel, routine maintenance materials, and office supplies

**Emergency purchasing.** The Finance Director or Town Manager, or designee, subject to review by the Town Council, shall have the right to make emergency purchases in excess of the limits of this policy and without using the aforementioned procedures when there exists a threat to public health, welfare, or safety under emergency circumstances.

**Formal bid purchase procedure.** The Finance Director or Town Manager, or designee, acting as the purchasing officer for the Town of Crested Butte, shall follow the procedures set forth in this section to call for competitive bids for all public improvements for the Town of Crested Butte.

All work done by the Town in the construction of works of public improvement with a cost of \$100,000 or more must be done by awarding a contract to the lowest responsible bidder on open bids. It is unlawful to divide work into two or more separate projects for the sole purpose of evading or attempting to evade this requirement. The Town is also required to advertise for and receive bids for technical or professional services (excluding legal services), incidental assistance, and equipment. Hiring outside help to address an emergency situation that poses a threat to public health and safety is deemed "incidental assistance" for purposes of this policy. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

A. The Finance Director, Town Manager, or designee, shall require a request for bid be published at least two times in a newspaper of legal record in the Town of Crested Butte. The publication of the invitation to bid shall not be less than 14 days prior to the date set for the official bid opening.

B. The Town reserves the right to reject any and all bids, and the right to disregard all nonconforming, nonresponsive or conditional bids. If conflicts arise between the provisions of

the text and any table, illustration, graphic depiction, or number or calculation, the provisions of the text shall apply. In the event that all bids exceed the funds allocated in the Town of Crested Butte's budget, the Town reserves the right to reduce the scope of work or reject all bids. The Town may negotiate with the lowest responsible bidder to reduce the scope of work as required to conform to the funds available. Entering into negotiations does not guarantee the subsequent award of the bid.

C. The Town shall conduct such investigations as deemed necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications and financial ability of the bidders, proposed subcontractors and other persons and organizations to do the work in accordance with the contract documents to the Town's satisfaction within the contract time. The Town reserves the right to reject the bid of any bidder who does not pass any such evaluation to the Town's satisfaction. If the contract is awarded, it will be awarded to the bidder who, by evaluation, the Town determines will best meet the Town's interest.

D. The Town may consider the qualifications and experience of the subcontractors and other persons and organizations (including those who are to furnish the principal items of material or equipment) identified for any portion of the work. Operating costs, maintenance considerations, performance data and guarantees of time, materials and equipment may also be considered by the Town.

E. For public works and construction projects of \$50,000 or greater, the Town requires performance, labor and materials bonds at 100% value.

**Disqualification of bids.** Failure to complete the bid form or to meet the requirements identified in the bid specifications shall constitute grounds for the rejection or disqualification of a bid. A bid will not be accepted from, nor shall a contract be awarded to, any person, firm, or corporation that is in arrears to the Town of Crested Butte upon debt or contract, or that is a defaulter on surety or otherwise upon any obligation to the Town. Bidders may be required to submit satisfactory evidence that they have a practical knowledge of the project and that they have the necessary financial resources to complete the proposed work.

***Bid openings.*** All bids shall be open to the public. Bids not submitted by the required deadline are ineligible for consideration and will not be opened.

**Award of contract.** The Town shall issue a notice of award (verbal or written) to the successful bidder within a reasonable time frame following the bid opening. Failure to enter into a contract with the Town within a specified time frame shall be just cause for annulment of the award, and forfeiture of the bid guaranty (if applicable). The award of the contract may then be made to the next higher and qualified bidder in the same manner as previously prescribed.

**Bids for construction contracts of \$100,000 and over.** The bid procedure for construction contracts equal to or greater than \$100,000 shall be the same as set forth for purchase of tangible goods, services, and supplies in this chapter except:

A. When contracting with a consulting or engineering firm for construction projects, said consulting or engineering firm shall be responsible for preparation of the invitation to bid and bid specifications and contracts.

B. All invitations to bid for construction contracts in any amount greater than \$50,000 shall include requirements for bid security. Bid security shall be a bond provided by a surety company authorized to do business in the state of Colorado. Bid security for construction contracts in any amount greater than \$50,000 but less than \$500,000 shall be in an amount that covers 5 percent (5%) of the estimated project cost. Bid security for construction contracts in any amount greater than \$500,000 shall be in an amount that covers 10 percent (10%) of the estimated project cost.

C. Following a sufficient period of time for review and inspection by Town staff, all bids for a construction or services contract of \$100,000 and over shall be awarded by the Town Council at a regular meeting or at a special meeting called for such approval, authorizing the mayor, mayor pro tem, Town Manager or designated department head to sign said contract.

**Informal purchase procedure.** An informal bid process is required for all purchases estimated to cost between \$5,000 and \$100,000.

Department heads or their designees may obtain informal bids on purchases with a cost of less than \$100,000. This may be accomplished by emails or similar communication where vendors provide written quotes.

- a. Informal bids or quotations must include the name of the firm, name of person providing the information, delivery date and terms, payment terms.
- b. A minimum of three quotations shall ordinarily be required.
- c. A refusal to bid constitutes a bid but cannot be the only other bid received. Every effort must be made to receive at least two actual bids.
- d. The award shall be made to the vendor meeting the specifications of the bid, having the lowest price and giving consideration to service, quality and delivery. The Town shall reserve the right to reject any and all bids.
- e. Written documentation of the bids signed by the purchaser shall be submitted to the Finance Director for filing and will be kept in accordance with the Document Retention Schedule.
- f. The Finance Director shall be responsible for assuring proper documentation is present prior to payment.

**Requirements for informal and formal bids per purchase.**

<b>Threshold</b>	<b>Bids/Proposal</b>	<b>Notice</b>	<b>Authorization</b>
<b>Up to \$500</b>	Buyer's best judgement	None required	Staff
<b>Up to \$5,000</b>	Buyer's best judgement	None required	Supervisors / Managers
<b>\$5,001 - \$25,000</b>	Informal Bids required.	None required	Department Head
<b>\$25,001 - \$100,000</b>	Informal Bids required.	None required	Department Head, Finance Director, and Town Manager
<b>\$100,001 and over</b>	Formal Purchase. Formal bids or proposals shall be required.	Request for bids shall be advertised twice in a newspaper of legal record a minimum of 14 days prior to the date set forth for bid opening.	Town council

**Local preference.** It is the intention of the Town of Crested Butte whenever possible to use, without significant additional cost to the taxpayers, local businesses for the purchase of goods and supplies and all general services. The Town intends to give local businesses an advantage in the bidding process so that funds received from such contracts will be spent by the employees of local businesses in the local economy. For the purposes of this policy, a "local business" shall be defined as any business located or based in Gunnison County. If a purchase is equal to or less than \$200,000, a local business shall be awarded a contract if its bid is within 10 percent of the lowest responsible bidder who does not have the local business designation. If a purchase is more than \$200,000, a local business shall be awarded a contract if its bid is within three percent of the lowest responsible bidder who does not have the local business designation. In the event that the two lowest responsible bidders each have a local business designation, the lowest responsible bidder shall be awarded the contract. The provisions of the local preference shall be suspended if prohibited by an external source including, but not limited to grantors, creditors, contractual agreements, or force of law. Moreover, and in response to the 2020 COVID19 crisis,

Town Manager and Finance Director have the ability to diversity business awards so as to assist as many Gunnison County businesses as possible.

**Formal/informal bid exceptions.** The following shall be exempt from formal or informal bidding:

- A. Purchases from federal, state or other local government units;
- B. Purchases made through other governmental entities as may be authorized by ordinance or statute;
- C. Equipment repairs; and
- D. Purchases where use of any other than specific vendors would result in incompatible component parts or would otherwise disrupt or impair services being provided or single vendor availability. Justification for these exceptions to the bid process must be approved by the Town Manager or Finance Director. A sole source purchase (the designation of a manufacturer or “brand name only” for goods or a specific vendor for service) is permitted only when fully justified by the requester. Competitors’ deficiencies shall also be documented. All requests for sole source purchase must have a statement addressing conflict of interest.

**Procedures.** Purchases may be made by one of the following means:

- A. Open account – The preferred method of payment for most Town purchases is through an open account, where the vendor sends invoices for goods and services directly to Accounts Payable.
  - a. Only the Finance Director and Town Manager have authority to apply for credit to open revolving accounts with vendors.
  - b. A Form W-9 must be obtained from all vendors subject to 1099 reporting prior to issuing a payment for services.
  - c. If employees are authorized to make small purchases on open accounts with vendors, they must sign off on the charge slip to acknowledge their receipt of the goods. The charge slip is to be turned into Finance to match with the vendor statement.
  - d. Invoices or, in the case of certain open accounts, the statements are mailed directly to Accounts Payable by the vendor and then routed to the department head for review and approval.
  - e. By signing off on the invoice, the approver is verifying the following:
    - i. The purchase was for Town business.
    - ii. The purchase was made within the approved budget.
    - iii. The delivered goods or services were acceptable to you.
    - iv. The invoice agrees to what you agreed to pay upon ordering the item (amount, terms, etc.).
    - v. The charge is within your approval authority.
  - f. Approval of invoices must be evidenced by the authorized employee’s signature or distinguishable initials and the date.

- g. All invoices in excess of \$25,000 must also be approved by the Town Manager.
- B. Town credit card – Certain employees – typically department heads and managers, are issued a Town credit card to use for travel and the purchase of miscellaneous goods and services.
- a. Credit card holders shall submit an expense report (credit card itemization is acceptable) monthly to document usage of the credit card. Documentation submitted with the expense report must include the original invoice or actual receipt. The business purpose must be clearly documented.
  - b. Each purchase on the itemization must be coded to the correct budget and account.
  - c. Complete a separate expense report for each credit card billing cycle and ensure that the total being reported agrees to the total per the credit card statement.
  - d. The card holder is responsible for collecting and submitting the expense report and associated invoices.
- C. Expense Reimbursements – Employee may submit an expense reimbursement form for mileage reimbursement and/or the infrequent occasion when items have been purchased for Town business using the employee’s own funds.
- D. Check request – Should be used on the very infrequent occasion that a purchase is initiated when a vendor invoice or contract is not available to submit to accounting.
- a. The purchaser should always obtain an invoice or some form of documentation from the vendor. The check request is only to be used when the vendor documentation is unavailable or does not provide the necessary information to describe the nature of the expense, payment due dates, etc.
  - b. The requestor must sign the check request and, if the purchase amount exceeds the requestors purchase authority, the requestor’s supervisor must also approve the check request.
  - c. The requirements in A.e. above also apply to check requests.
- E. Petty cash – Used only in approved locations for small items that cannot be charged to a credit card or open account.

Any time that an expense is incurred for multiple Town employees, the employee with the highest seniority must pay the bill. This will avoid a situation where a manager may be approving his or her own expenses. (For example, if a manager and staff members attend an out of town training seminar and one bill is incurred for a meal for all employees, the manager must be the one to pay the bill.)

Checks must contain the signature of someone other than the invoice approver or check requestor.

**Multiple Year Obligations.**

Article X of the Colorado Constitution prohibits municipalities from entering into direct or indirect multiple fiscal year financial obligations without prior voter approval or without adequate cash

reserves pledged irrevocably and held for payments in all future years. The Colorado Court of Appeals has held that contracts which are expressly subject to annual appropriation or non-renewal are not obligations within the meaning on this provision.