

 <p>Town of Allenstown New Hampshire</p>	FINANCIAL POLICIES & PROCEDURES Town of Allenstown, NH		
	<i>Title</i> CONTRACTING POLICY		
	<i>Policy No</i> #2016-004	<i>Original Adoption Date</i> 00/00/2016	<i>Revision – No. & Date</i>

Section 1.0: Purpose

The purpose of this policy is to clarify which officials have the authority to execute contracts and agreements on behalf of the Town.

Section 2.0: Organization Affected

All departments and functional areas of the Town of Allenstown.

Section 3.0: Definitions

Contract- a written or spoken agreement, especially one concerning employment, sales, or tenancy, that is intended to be enforceable by law.

Contractual Obligation- something that a person or entity is legally forced to do through having signed a contract to do.

Governing Body- The governing body of the Town is the Board of Selectmen. The Library Trustees and the Sewer Commission have limited authority as specified by statute to govern the functions specifically authorized within the scope of their functions.

Section 4.0: Policy

4.1 Signing Authority

The governing bodies of the Town are the only bodies that have the authority to contractually obligate the Town for those purposes for which they are specifically authorized to do so. Department heads, other town officials elected or appointed and employees do not have that authority except as specified in 4.2 below.

4.2 Delegation of Signing Authority

The governing bodies may authorize other town officials or employees to sign documents on behalf of the governing body when specifically authorized to do so. This requires the governing body to first vote to enter into an agreement or contract. Additionally the governing body must specifically vote to authorize a particular official or employee to sign on behalf of the governing body.

4.3 Multi-Year Obligations



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Contractual obligations which bind the Town that results in a financial obligation beyond the current budget year requires a non-appropriation clause or statutory exemption from the prohibition which prohibits the Town from making financial obligations committing the Town beyond the present budget year.

4.4 Contract Provisions

Town officials must carefully review the provisions of contractual obligations that commit the Town. The following provisions should be considered in every contract;

1. The Scope of the work should be clearly defined to include what work the contractor will perform and what the obligations of the Town will be.
2. The method of payment as well as payment schedule.
3. Determination of the amount of retainage if any, when it will be released and the process by which it will be released.
4. Insurance Provisions:
 - a. Whether the Town will be named as an additional insured. Ensure separate endorsement is provided in addition to certificate where needed.
 - b. Whether there is an indemnification agreement protecting the Town.
 - c. Workers Compensation coverage provisions.
 - d. Monetary minimum insurance coverage amounts.
 - e. Builders risk insurance.
 - f. Venue for dispute resolution. We should be trying to ensure such matters are addressed in New Hampshire courts under New Hampshire law.
 - g. Time limitations on insurance coverage/indemnification by the contractor covering the Town. Limitations on time to bring claims.
 - h. Waivers of subrogation. We should be leery of provisions which waive the Town's right to subrogation of claims.
 - i. Waivers of jury trial.
5. Performance bond requirements as specified in RSA 447:16 must be included as a provision of the contract as and when required by that statute.
6. Severability as it applies for sections of an agreement which may be deemed contrary to law which does not invalidate the entire document.
7. Provisions for termination of the agreement.
8. Provisions for transferring, assigning, sub-letting or sub-contracting.
9. General performance requirements to include compliance with all federal, state and local laws, ordinances and regulations.
10. Warranty provisions.



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11. Addendums and attachments to the agreement must be included with the contract and referenced in the main body of the contract.

Section 5.0: Procedures

5.1 Review Procedures

Contractual obligations to be entered into by or on behalf of the Board of Selectmen shall be reviewed by the Town Administrator prior to execution. The other governing bodies may and should have contracts they intend to enter into be reviewed by the Town Administrator. Insurance and indemnification provisions should be reviewed by the Town's insurance carrier prior to execution. Depending upon the complexity of the proposed agreement town counsel review should be considered.

Section 6.0: Implementation

To facilitate conduct in accordance with this policy, a copy of this policy shall be made available to department heads, employees, volunteers, board and committee members, appointed or elected to office and at such other times as may be necessary.

Section 7.0: Signature

	Position	Signature	Date
<u>Original Policy Prepared By:</u> Shaun Mulholland	Town Administrator		00/00/2016
<u>Original Policy Reviewed & Approved By:</u> Jason Tardiff	Board of Selectman Chairperson		00/00/2016
David Eaton	Board of Selectman		00/00/2016



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Jeffrey Gryval	Board of Selectman		00/00/2016
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Section 8.0: Policy & Procedure Revision History

	Section	Changes Made	Approvals	
			By	Date
Original Adoption				
Amendment				
Amendment				
Amendment				

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