

THE CORPORATION OF THE TOWNSHIP OF WOLLASTON

BY-LAW NO. 36 -2019

**Being a By-Law to Adopt a Procurement Policy for
The Corporation of the Township of Wollaston**

WHEREAS the *Municipal Act, 2001*, Section 270(1) 3, as amended, requires that a municipality and local board shall adopt and maintain policies with respect to its procurement of goods and services;

AND WHEREAS the Procurement Policy attached hereto establishes and sets out the method by which goods and services will be purchased;

AND WHEREAS it is deemed necessary to adopt a policy by by-law with respect to the procurement of goods and services;

NOW THEREFORE, the Council of The Corporation of the Township of Wollaston enacts as follows:

1. That this policy will provide guidance to both Council and Staff to provide a basis for decision-making relating to the procurement of any goods and services;
2. That this By-Law shall come into force and take effect upon the Passing thereof, and that all former by-laws governing procurement of goods and services are hereby repealed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS THE
8th DAY OF July, 2019**



Barbara Shaw - Reeve



Dylinna Brock - Clerk

THE CORPORATION OF THE TOWNSHIP OF WOLLASTON PROCUREMENT POLICY

A policy to establish procurement for The Corporation of the Township of Wollaston which replaces the provisions of the Procurement of goods and services Policy approved by the Council on December 7th, 2004.

1.0 Purpose

The purpose is to establish a policy with respect to the procurement of goods and services for the Corporation of the Township of Wollaston and to provide for fair, transparent and accountable purchasing processes thereby to protect Council, Vendors and Staff involved in the process by providing clear direction and accountabilities.

2.0 Scope

This document will provide guidance to Council and Staff and provide a basis for decision-making relating to the procurement of goods and services. It is designed to be implemented in accordance with the governing legislation.

More specifically, this policy is written in compliance with the *Municipal Act*-specifically Section 224 (d) and Section 270 (1) (3).

Should there be any incongruence between the policy and the governing legislation, the provisions of the governing legislation will prevail.

3.0 Guiding Principles

- i. To promote the most cost effective and efficient use of Township funds and resources by acquiring the specified goods and services at the optimum quality, quantity, price, delivery and performance.

- ii. To encourage open competitive bidding on all acquisition and disposal of goods and services where practical. The open bidding processes shall be both objective and fair. Objectivity will be maintained through processes that will be developed and implemented in an unbiased manner, not influenced by personal preferences, prejudices or interpretation. Fairness will be maintained by applying the policies equally to all bidders.
- iii. To only purchase goods and services as approved in the annual budget unless it is otherwise approved by Council.
- iv. To obtain the most competitive offers from the most responsible and responsive vendors. To use vendors who comply with the provisions of the bid solicitation, including specifications and contractual terms and conditions. To use vendors who can be expected to provide satisfactory performance based on reputation, references, past experience, and sufficiency of financial and other resources.
- v. To structure specifications that do not exclude certain vendors or manufacturers unless there is documented evidence to warrant exclusion.
- vi. To always consider the total acquisition cost rather than the lowest bid. This includes, but is not limited to, such factors as repairs, staff training, suitability, compatibility, warranty, trade-in values, recycling and disposal concerns.
- vii. To acquire goods and services with regard to preservation of the natural environment. This gives reference to the type of materials used, method of manufacture and the method of disposal.
- viii. To delegate the appropriate level of authority to enable municipal departments to meet service requirements. To ensure that employees who are responsible for requisitioning and purchasing goods and services are accountable for their actions and decisions. That they always act in accordance with the Township's *Code of Conduct* and *Conflict of Interest* policies.
- ix. To participate with other publicly funded bodies in co-operative purchasing activities where they are in the best interest of the Township.
- x. To have a plan in place to review and revise, if necessary, the procurement policy at least every 4 years.
- xi. Municipality shall provide training for staff involved in procurement process to ensure competent, knowledgeable, performance of duties while acting on behalf of the Municipality.
- xii. Access to legal council shall be available to staff during the procurement process to ensure proper legal procedures and documentation are followed.

4.0 General Conditions

- i. Evaluation criteria shall be established early in the procurement process and be made known to all prospective bidders.
- ii. Suppliers shall be required to provide evidence of satisfactory insurance coverage.
- iii. Suppliers shall provide a Certificate of Clearance in respect to the Workplace Safety and Insurance Board.
- iv. Suppliers shall be required to file appropriate financial security to guarantee completion of the contract and satisfaction of all related obligations.
- v. All professional and consultant services retained by the Township shall disclose to the Township prior to accepting an assignment, any potential conflict of interest. If such a conflict of interest does exist, the Township as directed by the initiating Department Head may, at its discretion, withhold the assignment from the consultant until the matter is resolved. Furthermore, if during the assignment a consultant is retained for another client giving rise to a potential conflict of interest, the consultant shall inform the Township and the Township shall take appropriate steps to work with the consultant to resolve the issues of conflict of interest.
- vi. Late bids and unsealed bids shall be automatically disqualified.
- vii. Council can waive any part of this Policy, or the Policy in its entirety, by resolution, for a specific purchase or project, provided adequate explanation is given beforehand.
- viii. No requirement for goods and services may be divided into two or more parts to avoid the provisions of this policy.
- ix. For the purposes of determining whether a purchase falls within the prescribed value limits, the amount shall be the sum of all costs to be paid to the supplier under the contract, excluding all taxes and less any early payment discount.
- x. The Clerk or initiating Department Head may remove a vendor's name from the list of bidders for a period of up to three years on the basis of documented poor performance, non-performance or undisclosed conflict of interest. A written notice of the decision will be provided to the vendor by the Clerk.
- xi. The Clerk has the authority to instruct the initiating Department Head not to award a contract that may be deemed not in compliance with this policy. Further, the Clerk may direct staff to submit recommendations to Council for

approval and may provide additional restrictions concerning procurement where such action is considered necessary and in the best interests of the Township.

- xii. Where possible, the municipality should create standardized documents for procurement of goods and services that are regular in nature and have a particular set of criteria and specifications.
- xiii. Where possible, the municipality should create a list of preferred vendors based on a pre-approval process that identifies vendors that have historically and frequently provided the best, price, service, quality and timely delivery for goods and services. This list is to be reviewed, renewed and/or revised at least every 2 years. New vendors can apply to be included in this list at any time on an ongoing basis.

5.0 Methods of Procurement

i. Direct Purchase

This method of purchase refers to the direct ordering and purchase of goods and services from a supplier with or without negotiation. This method of purchase will be used primarily for the purchase of low value goods where the cost and administrative burden of other methods of purchase is significant in relation to the price or value of the goods purchased. Employees are encouraged to use their own judgment to promote the principles of this policy in any direct purchase.

ii. Negotiated Method

This method of purchase refers to the negotiation of an agreement for the purchase of goods and services from a supplier without open competition. It is used in the case where the conditions listed in Appendix A – Purchase by Negotiation are present.

iii. Request for Quotation/Informal Quotation

This method of purchase is a competitive method. The specifications for the goods and services and terms of purchase will be established with sufficient particularity to permit comparable quotations to be made by suppliers. A sufficient number of suppliers shall be requested to submit quotations on the specifications and terms of purchase so that at least three responsive quotations are received, where practical. In general, the Informal Quotation process does not involve the receipt of sealed bids or the preparation of formal quotation documents. The Informal Quotation process seeks to obtain competitive pricing in an expeditious and cost-effective manner through, fax,

e-mail or vendor advertisement of vendor catalogues.

iv. Request for Tender

This is a competitive method of purchase which may include supplier or contractor pre-qualification. The tender process follows these general procedures:

- Contractor and Supplier Qualification (if applicable)
- Development of Specifications and Contract Terms
- Publication and Solicitation of Tenders
- Receiving and Opening of Bids
- Bid Evaluation and Selection

The specifications and contract terms are detailed within the tender documents and consequently there is no prospect of negotiations between the parties. It is intended to accept the lowest priced compliant bid, as all the terms, conditions and specifications must be met by the bidders.

v. Request for Proposals

This method of purchase involves the solicitation of proposals designed to solve a complex problem or one for which there is no clear or single solution. It may or may not include prequalification. In this method of purchase, some or all of the specifications and contract terms will not be finally determined with sufficient certainty to form the basis of a final contract before proposals are solicited and submitted. It will be expected that there will be variations in the final specifications and contract terms among and between responsive proponents. The process may involve negotiations subsequent to the submission of proposals on any or all of the specifications, contract terms and price. The selection of a successful proponent will be based on qualitative and technical considerations as well as pricing considerations.

6.0 Authorization Levels of Acquisition of Goods and Services

i. Acquisition of goods and services having a value of \$0 - \$1,000

Municipal employees are authorized to purchase goods and services; however, the Department Head of the initiating department must approve the purchase, in advance, in writing.

ii. Acquisition of goods and services having a value of \$1,000 - \$5,000

Department Heads are authorized to purchase goods and services that are included within The Council approved current year budget. This restriction does not include already approved and budgeted existing contracts. Clerk and Reeve to sign off.

iii. Acquisition of Goods and Services over \$5,000

Must be formally approved by The Council. Any of the types of procurement listed above may be used where appropriate. If the direct purchase or negotiated method are deemed to not be suitable and one of the other three types of procurement are used, then the initiating Department Head shall attempt to obtain three (3) written quotations, in writing, wherever possible and kept on file.

In the event that three (3) written quotations are not received, the initiating Department Head along with the Clerk shall decide if the quotations that have been received are satisfactory to warrant procurement and are within the Township's approved budget.

The lowest of any quote may not necessarily be accepted; however, in circumstances where the lowest quote is not recommended by the initiating Department Head, the Department Head shall provide Council with a report stating why the lowest quote is not being accepted and the purchase shall then be approved by Council. A report to Council is necessary if a contract/agreement is to be executed by the Reeve and the Clerk.

iv. Request for Tenders

Tenders shall be advertised with a reply to be received by a designated date and time. Any requested bid deposits, security or bonds must be included with the submission. Replies are delivered directly to the Clerk and are opened at a public tender meeting. If only one tender is received, the Clerk and the initiating Department Head have the option of not opening the bid and closing the call for tender.

A report to Council shall be initiated by the initiating Department Head for consideration and approval.

Upon approval, the Department Head shall ensure that a legally binding agreement is executed by the Reeve and Clerk.

The initiating Department Head is responsible for maintaining current insurance Certificates and Workplace Safety and Insurance Board certificates as called for in the bid documents.

v. Request for Proposals

Written quotations shall be acquired through the Request for Proposals process outlined above and evaluated on the basis of quantitative and qualitative criteria. Request for Proposals are required to be advertised and a reply is required by a

designated date and time. Proposal evaluation is done by a team of staff from possibly more than one department who has relevant expertise for making the valuation, including the Clerk and the Treasurer.

A report to Council, endorsed by the Clerk, shall be presented by the initiating Department Head for Council consideration and approval. Upon approval, the Department Head shall ensure that a legally binding agreement is executed by the Reeve and the Clerk.

7.0 Emergency Procurement

Notwithstanding the provisions of this policy, the following shall only apply in case of an Emergency. Emergency is defined as the occurrence of an event that is determined by a Department Head or the Clerk to be:

- A threat to public health
- Creates the loss of essential Township services
- Threatens the welfare of persons and/or of public property
- Threatens the security of the Township's interests

The following criteria are to be applied on the basis of Emergency Procurement up to \$25,000

- Wherever feasible, the Department Head shall obtain the prior approval of the Clerk and shall secure by the most open market procedure at the lowest obtainable price any goods and services required

The below criteria are to be applied on the basis of Emergency Procurement over \$25,000

- The Department Head shall obtain the prior approval of the Clerk. An information report shall be submitted to the Council explaining the actions taken and the reason(s) thereof following the emergency at the next regular meeting of council.

8.0 Operative or Joint Ventures

The Municipality may participate with other Government agencies or public authorities in co-operative procurement/acquisition ventures or utilize a 'piggy back clause' within public sector contracts, whenever it is determined to be in the best interest of the Municipality to do so.

9.0 ACCESSIBILITY

In acquiring goods and services for the Municipality, municipal staff shall consider and have regard to disability accessibility issues as they may

reasonably pertain to such acquisitions or goods and services.

If it is not possible and practical to do so, the Township of Wollaston will provide an explanation on request. Explanations shall be forwarded by the appropriate Department Head in an accessible manner and shall be copied to the Clerk's office for further review so that such issues shall be incorporated into the accessibility plan to prevent and remove such barrier

10.0 Definitions

"Agreement" means a legal document that binds The Corporation of the Township of Wollaston and all other parties, subject to the provisions of the contract.

"Bid Request" means a written request for bids or a solicitation, which may be in the form of a Request for Proposal or Request for Tender.

"Clerk" means the Clerk of The Corporation of the Township of Wollaston or designate.

"Council" means the Council of The Corporation of the Township of Wollaston.

"Department Head" means the employee responsible for direction and operational control of a Department or designate.

"Emergency" means a situation where the purchase of goods and services requires immediate action to prevent or correct dangerous or potentially dangerous safety conditions, further damage, to restore minimum service or ensure the safety of the public

"Goods and/or Services" means such goods and services as supplies, equipment, property insurance, maintenance, professional and consulting services and service contracts not otherwise provided for.

"Township" means The Corporation of the Township of Wollaston.

"Open Market Procedure" means obtaining price quotations from vendors in writing

"Procurement" means to acquire goods and/or services by purchase, rental or lease.

"Proponent" means the person responding to a Request for Proposal or Tender.

"Single Source" means one vendor is recommended for consideration of the particular goods and/or services based on reasons of function and/or service.

"Treasurer" is the individual appointed by the municipality who is responsible for handling all of -the financial affairs of the municipality on behalf of and in the manner directed by Council.

APPENDIX A - PURCHASE BY NEGOTIATION

All purchasing of goods and services shall be by a competitive method except for the following where the negotiation method would apply

- 1. When specific standards are set by council**
- 2. When goods or services are available from only one source**
- 3. When the required item is covered by an exclusive right such as a patent, copyright or exclusive license**
- 4. When, due to the low dollar value of the procurement, competitive sourcing would be uneconomical or would not attract bids**
- 5. Where compatibility within an existing product or process, or avoidance of violation of**

warranty/guarantee requirements is the overriding consideration

6. When two or more identical lowest bids have been received

7. When, due to market conditions, goods are in short supply

8. When all acceptable bids exceed the amount budgeted and re-tendering would not be beneficial

9. When the extension or reinstatement of the existing contract would be the most cost effective or beneficial method and is in the best interest of the Township

10. When an emergency, where goods and services are deemed necessary and time and safety concerns reasonably limit the use of any other prescribed procurement process; this would include fulfilling a statutory order issued by a federal or provincial authority, such as an environmental, public health or workplace safety compliance order

11. When non-emergency circumstances would require a vendor to perform an assessment on machinery or equipment to enable the determination of the extent of the required repair, that a pre-qualified vendor may be selected to perform the necessary repairs when the quoted repair price is considered reasonable and in the best interests of the Township as determined by the Department Head. The written quote must be less than \$25,000

12. When no bids are received on a formal quotation, tender or request for proposal

13. When it involves components or replacement parts where there is only one vendor and there is no substitutes

14. Where it is Council's opinion the best interest of the Township would be served through negotiations