



The Corporation of Town of New Tecumseth

Procurement Policy

Policy Type: Corporate

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Name of Dept: Finance

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Status: Current

Previous Policy No.: Schedule 3 - Procurement of Goods and Services (Purchasing) Policy of Section 270 Policies By-law 2007-235

1. **Policy Statement**

This policy is intended to ensure openness, accountability and transparency in the Town's procurement operations, while protecting the financial and operational best interests of the Town.

2. **Purpose**

The purpose of this policy is to:

- a. express the principles that the Town will strive to uphold in relation to its procurement operations;
- b. describe the roles and responsibilities and delegated authorities for carrying out the Town's procurement activities; and
- c. comply with the requirements of Section 270 of Ontario's *Municipal Act*, as amended from time to time.

3. **Scope**

This policy applies to the Town's procurement of all goods and services, including construction services, with the exception of any goods and services that are expressly excluded in Schedule A. Procurement includes the acquisition of goods and services by purchase, rental or lease.

All boards of the Town shall adhere to this policy, unless the local board has an approved policy for its procurement of goods and services, as described in the Municipal Act, 2006, c. 32, Sched. A, s. 113.

For additional clarity, this policy does not apply to:

- a. contracts or agreements relating to hiring of employees or employee compensation or reimbursement of employee expenses; or
- b. contracts or agreements for the sale, purchase, lease or license of real property, which is covered by the Sale and Other Disposition of Land Policy, as amended from time to time, and the *Municipal Act*.

4. **Definitions**

When used in this policy, the following terms have the following meanings:

"agreement" means contract, defined below.

"best value" means the optimal combination of cost, quality and sustainability to meet the Town's requirements based on objective and quantifiable criteria.

"bid" means a submission in response to a solicitation document, and includes proposals, quotations, or responses.

"bidder" means a supplier that submits a bid, and includes proponents and respondents.

"competitive process" means the solicitation of bids from multiple suppliers.

"contract" means a legally binding commitment by the Town for the procurement of deliverables from a supplier, which may be evidenced by a formal agreement executed by the supplier and the Town and/or a purchase order issued by the Town to the supplier.

"cooperative purchasing" has the meaning set out in section 5.16.

"Council" means the Town Council.

"deliverables" means any goods, services or construction, or combination thereof.

"Department" means the department or branch of the Town that is requisitioning the purchase of the deliverables.

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

“Invitational Competition” means a competitive process in which an invitation to submit bids is issued to at least three suppliers.

“Legal Services” means the Town’s legal advisors.

“Low-Value Procurement” means a procurement of deliverables with a procurement value below \$10,000, except where the deliverables are available through an existing Standing Offer or Qualified Supplier Roster.

“Non-Competitive Procurement” acquiring deliverables directly from a particular supplier without conducting a competitive process.

“Non-Standard Procurement” means the acquisition of deliverables through a process or method other than the standard method required for the type and value of the deliverables. Non-standard procurement methods include:

- a. conducting a Non-Competitive Procurement when an Invitational Competition or an Open Competition would normally be required; and
- b. conducting an Invitational Competition when an Open Competition would normally be required.

“Open Competition” means the solicitation of bids through a publicly posted solicitation document.

“Procurement Governance Committee” (“PGC”) means the committee established by the Town under this policy for the purposes of considering and making determinations on procurement-related matters, including determinations under the Procurement Protest Procedure and the Supplier Suspension Procedure.

“procurement value” means the maximum total value of the deliverables being procured, and must include all costs to the Town, including, as applicable, acquisition, maintenance, replacement, disposal, training, delivery, installation, warranty and extension options, contingency, and is exclusive of sales taxes.

“Purchase Order” means the Town’s written document issued by a duly authorized employee of the Town to a supplier formalizing the terms and conditions of the purchase and supply of the deliverables identified on the face of the Purchase Order.

“Purchase Initiation” means a request for the procurement of deliverables initiated by a Department.

“purchasing card” means a credit card provided by the Town to authorized employees for use as a payment method to purchase directly from suppliers where permitted under this policy, the Purchasing Card (P-Card) Policy, as amended from

time to time, purchasing card procedures, and in accordance with any cardholder agreement and applicable procedures.

“Qualified Supplier Roster” means a list of suppliers that have participated in and successfully met the requirements of a Request for Supplier Qualifications (RFSQ), and have therefore been pre-qualified to perform discrete work assignments involving the delivery of a particular type of deliverable.

“realproperty” means land or buildings and any interest, estate or right of easement affecting same.

“Roster Competition” means an expedited, invitational competition between suppliers that have been included on a Qualified Supplier Roster for the selection of a supplier to perform a discrete work assignment during the term of the roster.

“solicitation document” means the document issued by the Town to solicit bids from bidders.

“Standing Offer” means a written offer from a pre-approved supplier to supply deliverables to the Town, upon request, through the use of an ordering process during a particular period of time, at a predetermined price or discount, generally within a pre-defined dollar limit. May also be referred to as a “blanket purchase order” or “supply contract”.

“supplier” means a person carrying on the business of providing deliverables.

5. Policy

5.1 Goals and Objectives

The Town’s goals and objectives in relation to its procurement operations are to:

- a. adhere to the highest standards of ethical conduct;
- b. achieve an effective balance between accountability and efficiency;
- c. comply with applicable legislation, trade agreements, policies and procedures;
- d. encourage open, fair and transparent processes that afford equal access to all qualified suppliers, avoid dependency on particular suppliers, and respect the principles of reciprocal non-discrimination and geographic neutrality;
- e. have regard for the accessibility of persons with disabilities in consideration of goods and services purchased by the Town in accordance with the Town’s policies in respect of accessibility;

- f. achieve best value through consideration of the full range of procurement formats and the adoption of commercially reasonable business practices;
- g. procure required deliverables in an efficient, timely and cost-effective manner; and
- h. encourage best efforts for the procurement of deliverables with due regard to sustainability, such as the preservation of the natural environment and social responsibilities.

5.2 Procurement Procedures

In accordance with the Town's Writing Policies and Procedures Policy, the Manager of Procurement Services is authorized to develop, maintain and update, as necessary, detailed procedures to support this policy. All procurements covered by this policy must be conducted in accordance with all applicable procedures.

5.3 Ethical Conduct and Conflicts

1. Town Conduct and Conflicts of Interest

The Town's procurement activities must be conducted with integrity so as to maintain the public's trust and all individuals involved in the Town's procurement activities must act in a manner that is consistent with the principles and objectives of this policy and in accordance with the Town's Staff and Council Codes of Conduct, or as amended from time to time.

Employees shall not knowingly cause or permit any potential supplier to have an unfair advantage or disadvantage in obtaining a contract for the supply of goods and service to the Town.

Employees shall not extend, in the discharge of their official duties, preferential treatment to relatives, friends, organizations or groups in which they or their relatives or friends have a pecuniary interest.

Employees shall not solicit, accept or condone the solicitation or acceptance of any gift, favor or form of entertainment and/or hospitality from any person or corporation having dealings with the Town, except in accordance with the Town's Code of Conduct.

When procuring deliverables on behalf of the Town, employees shall not collect personal rewards.

No purchase shall be processed for personal items of direct benefit to any member of Council or employee of the Town or their family members, except where expressly permitted by Council policy.

No deliverables will be purchased from any member of Council or employee of the Town or their family members unless the extent of the interest of such individual has been fully disclosed and the purchase has been approved by the Procurement Governance Committee.

All participants in a procurement process, including any outside consultants or other service providers participating on behalf of the Town, must declare any perceived, possible or actual conflicts of interest.

“Conflict of Interest,” when applied to the activities of the Town and its consultants or service providers, means a situation in which private interests or personal considerations may affect the individual’s judgment in acting in the best interest of the Town. A conflict of interest may arise when an interest benefits any member of the individual's family, friends, or business associates.

2. Supplier Conduct and Conflicts of Interest

The Town requires its suppliers to act with integrity and conduct business in an ethical manner.

All suppliers participating in a procurement process or providing deliverables to the Town must declare any perceived, possible or actual conflicts of interest and must conduct themselves in accordance with the Supplier Code of Conduct in Schedule D.

As further described in the Supplier Suspension Procedure, the Town may refuse to do business with any supplier that has engaged in illegal or unethical bidding practices, has an actual or potential conflict of interest or an unfair advantage or fails to adhere to ethical business practices.

5.4 Roles and Responsibilities

Specific responsibilities pertaining to all stages of a procurement process, from the initial identification of requirements through to the management of contracts with suppliers, are detailed in this policy and related procedures. In addition to those specific responsibilities, the general roles and responsibilities of the Town’s Council, officers and employees are set out below.

1. Council

In accordance with best practices in municipal procurement, Council recognizes the need for a clear separation of political and administrative functions in relation to the Town’s procurement operations.

It is the role of the Council to establish policy and approve expenditures through the Town’s budget approval process. Through this policy, Council

delegates to the Town's officers and employees the authority to incur expenditures in accordance with approved budgets through the procurement of deliverables in accordance with the rules and processes set out in this policy and applicable procedures.

To facilitate Council's oversight role in respect of significant projects, Council may require Departments to obtain Council's authority to initiate specific procurements by identifying procurement projects of interest, such as procurements that are of a high value or involve significant risk, security concerns or significant community interest.

In order to avoid the potential appearance of bias or political influence in contract award decisions, members of Council will have no involvement in competitive procurement processes from the time those procurement processes have been initiated through the advertisement or issuance of the solicitation document until a contract has been entered into with the successful supplier, except to the extent that the approval of Council is required under this policy or otherwise required by statute.

2. CAO

It is the role of the CAO to oversee the Town's Administration. In fulfilling this role, the CAO is responsible for approving procurement procedures in accordance with the Town's Writing Policies and Procedures Policy and enforcing this policy and related procedures.

When escalated to the CAO by the Manager of Procurement Services or a Department Head, the CAO will:

- a. address matters of non-compliance with this policy; and
- b. resolve disputes in respect of the interpretation or application of this policy and related procedures.

3. Treasurer

The Director of Financial Services / Treasurer is responsible for overseeing Procurement Services and providing support and guidance to the Manager of Procurement Services, as required. The Treasurer may act as the authorized designate of the Manager of Procurement Services whenever necessary.

4. Manager of Procurement Services

It is the role of Procurement Services to lead the Town's procurement operations. In fulfilling this role, the Manager of Procurement Services is responsible for:

- a. ensuring the consistent application of this policy and the provision of procurement services to the Departments in an efficient and diligent manner;
 - b. developing procurement strategies and continually analyzing business requirements and spending patterns to identify opportunities for more strategic sourcing;
- i. researching, developing, maintaining, updating and communicating procurement procedures and templates
 - ii. addressing any issues or concerns that arise in respect of a procurement process, advising Department Head of same, and seeking guidance, support and legal advice, as required; and
 - iii. providing appropriate orientation, training, advice, and tools to employees involved in procurement activities.

5. Department Heads

It is the role of the Departments to ensure that their requirements for deliverables are met in accordance with the principles and objectives of this policy and for supplier performance. In fulfilling this role, Department Heads are responsible for ensuring that their Department complies with this policy and all applicable procedures, encouraging sound procurement practices, and ensuring the provision of appropriate education and training to employees involved in procurement activities.

Department Heads will be held accountable for any decision to proceed with a procurement process or transaction that is not conducted in accordance with this policy or does not have the approval of Procurement Services.

6. All Employees

All Town employees are responsible for complying with this policy. Employees involved in procurement activities must clearly understand their obligations and responsibilities under this policy and all applicable procedures. Employees should consult with the Manager of Procurement Services in respect of any questions regarding the application or interpretation of this policy or any relevant procedures.

5.5 Delegation of Responsibilities to Designates

The Town's officers and employees may delegate the responsibilities assigned to them under this policy and related procedures to their designates, unless such delegation is expressly prohibited by this policy.

Authority delegated under the Authorization Schedule in Schedule C may only be delegated to a higher level of authority than specified, unless delegation to a lower authority level is expressly permitted.

5.6 Procurement Governance Committee

The Town will establish a Procurement Governance Committee for the purpose of making final determinations under the Procurement Protest Procedure and the Supplier Suspension Procedure and for considering and providing input on other procurement matters that may be referred to it by the Manager of Procurement Services.

The Procurement Governance Committee will include at least three members of the Senior Management Team, as designated by the Treasurer and CAO.

5.7 Procurement Planning

Effective procurement planning is essential to ensuring an effective result and to limiting risk to the Town. Departments must ensure that they leave sufficient time to plan for a procurement, including time for:

- a. developing proper specifications and business requirements;
- b. obtaining internal reviews;
- c. conducting a competitive process, as required;
- d. obtaining necessary approvals; and
- e. considering lead time for delivery of the deliverables.

Departments must follow the Procurement Planning Procedure.

5.8 Market Research

Where the Department is uncertain about the deliverables required or where there is insufficient internal knowledge about the market and where these details cannot be defined adequately by the methods described in the applicable procedures, the Department must consult with Procurement Services about conducting market research, such as a Request for Information (RFI) process. An RFI process must be openly posted in order to gather market research from prospective bidders. It must not be used as a prequalification tool or any form of competitive process.

5.9 Establishing Supply Arrangements

Before initiating a procurement, Departments must consider the availability of existing supply arrangements. Procurement Services will be responsible for providing access to this information.

If the deliverables will be required on a frequent or regularly recurring basis, and there is no existing supply arrangement, the Department must consult with Procurement Services about the possibility of establishing a Standing Offer or Qualified Supplier Roster.

1. Standing Offers

Standing Offers may be established for standardized deliverables to be purchased by all Departments, where the requirements for deliverables are recurring and predictable over an extended period of time, the requirements are standard and clearly defined at the time of establishment of the Standing Offer, and it is possible to establish fixed prices or pricing mechanism that will apply to the deliverables for the duration of the Standing Offer.

The establishment of a Standing Offer does not create a contractual commitment to procure deliverables from the supplier. The commitment to purchase against a Standing Offer is formed at the time a specific order is placed through the issuance of a purchase order to the supplier.

The Manager of Procurement Services is authorized to establish Standing Offers. Unless the total expenditures under the Standing Offer will be limited to no more than \$100,000, it will be established through an Open Competition in accordance with the Authorization Schedule in Schedule C and the Open Competition Procedure. If multiple Standing Offers are established for the same goods or services, clear ranking methodologies and call-up procedures must be specified.

2. Qualified Supplier Rosters

Qualified Supplier Rosters may be established to pre-qualify suppliers that will be eligible to compete for individual work assignments involving the delivery of a particular type of deliverables, as and when required.

The establishment of a Qualified Supplier Roster does not create a contractual commitment to procure deliverables from any of the suppliers. If and when deliverables are required, a Roster Competition will be conducted for the purposes of awarding a contract to one of the qualified suppliers.

The Manager of Procurement Services is authorized to establish Qualified Supplier Rosters in accordance with the Authorization Schedule in Schedule C and the Qualified Supplier Roster Procedure.

5.10 Procurement Value

It is important to accurately estimate the value of the procurement to determine the appropriate procurement method and ensure compliance with the requirements of this policy. Departments must refer to the Procurement Planning Procedure for additional guidance on estimating procurement value.

All dollar values specified or referred to in this policy and related protocols and procedures are exclusive of sales taxes.

5.11 Contract Splitting

Subdividing, splitting or otherwise structuring procurement requirements or contracts in order to reduce the value of the procurement or in any way circumvent the requirements or intent of this policy is not permitted.

5.12 Authority to Initiate Procurement Process

Procurements must be initiated in accordance with the Authorization Schedule in Schedule C.

Unless specifically permitted under this policy or the procurement procedures, Departments are not permitted to procure deliverables or engage with potential suppliers regarding the procurement of deliverables without the involvement of Procurement Services.

With the exception of necessary operating expenditures, no procurement may be initiated unless approved funding in an amount sufficient to cover the procurement value is available, or in the case of multi-year projects, the future commitment is approved through the Town's budget approval process.

5.13 Standard Procurement Methods

1. Existing Supply Arrangement

a. Standing Offer

If deliverables are available under an existing Standing Offer, they may be acquired in accordance with the order process or call-up procedure established under the Standing Offer based on the pre-established pricing and terms and conditions of the Standing Offer.

b. Qualified Supplier Roster

If the deliverables are available under an existing Qualified Supplier Roster, they must be acquired through a Roster Competition.

Roster Competitions will be conducted in accordance with the Authorization Schedule in Schedule C and the Qualified Supplier Roster Procedure.

2. Low-Value Procurement (Below \$10,000)

Where the procurement value is below \$10,000 and the deliverables are not covered under an existing Standing Offer or Qualified Supplier Roster, Departments may make Low-Value Procurements in accordance with the Authorization Schedule in Schedule C.

The Department Head is responsible and accountable for Low-Value Procurements and may authorize specific individuals within the Department to make Low-Value Procurements and may assign specific spending authority limits not to exceed \$10,000.

If a Department anticipates making multiple Low-Value Procurements of the same deliverables and the total value of those purchases may exceed \$10,000, the Department must contact Procurement Services to discuss the establishment of a supply arrangement.

3. Invitational Competition (\$10,000 - \$100,000)

An Invitational Competition, in which bids are solicited from a minimum of three suppliers, is the standard method of procurement when the procurement value is between \$10,000 and \$100,000.

Invitational Competitions will be conducted in accordance with the Authorization Schedule in Schedule C and the Invitational Competition Procedure.

Open Competition may be conducted in lieu of an Invitational Competition, where the Manager of Procurement Services, in consultation with the Department, determines that it would be in the Town's best interest.

4. Open Competition (above \$100,000)

An Open Competition, in which bids are solicited from all interested suppliers through a publicly posted solicitation document, is the standard method of procurement when the procurement value is above \$100,000.

Open Competitions are generally also to be used to establish Standing Offers and Qualified Supplier Rosters.

Open Competitions may include two-stage procurement processes in which a prequalification process is conducted by soliciting and evaluating submissions from all interested suppliers in order to establish a short-list of prequalified

suppliers that will be eligible to submit a bid in response to a second-stage solicitation document. A pre-qualification process may be used whenever determined appropriate by the Manager of Procurement Services, in consultation with the Department.

Open Competitions will be conducted in accordance with the Authorization Schedule in Schedule C and the Open Competition Procedure.

5.14 Non-Standard Procurement

Non-Standard Procurement means the acquisition of deliverables through a method other than the standard method for the type and value of the deliverables, as set out above under Section 5.13.

The use of a Non-Standard Procurement process is only permitted under the specific circumstances set out in the Non-Standard Procurement in Schedule B and must be approved in accordance with the Authorization Schedule in Schedule C and the Non-Standard Procurement Procedure.

Under no circumstances will a Non-Standard Procurement be used for the purpose of avoiding competition among suppliers or in a manner that discriminates against or advantages suppliers based on geographic location.

5.15 Unsolicited Proposals

All unsolicited proposals, including any offers for presentations or product/service trials submitted to the Town with the expectation on the part of the submitter of obtaining consideration for an ensuing contract or procurement by the Town, must be directed to the Manager of Procurement Services for review.

Any product presentation or demonstration should only be held as part of a formal request for information process or competitive process.

Any procurement resulting from the receipt of an unsolicited procurement must comply with the provisions of this Procurement By-law.

In the absence of a competitive process, a contract may only be awarded in respect of an unsolicited proposal if a Non-Standard Procurement is permitted in accordance with this policy and all applicable procedures.

5.16 Cooperative Purchasing and Buying Groups

The Town may participate in cooperative or joint purchasing initiatives with other public sector entities where such initiatives are determined by the Manager of Procurement Services to be in the best interests of the Town. If the Town participates in such cooperative or joint purchasing initiatives, the Town may adhere to the policies

and procedures of the entity conducting the procurement process, provided that such policies comply with the goals and objectives of this policy and the procurement is in accordance with the Town's obligations under applicable trade agreements. If the Town is leading a cooperative or joint purchasing initiative, this policy and the Town's procedures will be followed.

The Town may participate as a member of buying groups which administers procurements for its members when determined by the Manager of Procurement Services to be in the best interests of the Town. If the Town is a member of a buying group, the Town may procure deliverables through the buying group provided that the procurement process is conducted in a manner consistent with the Town's obligations under applicable trade agreements.

5.17 Emergency Purchases

Notwithstanding any other provisions of this policy, where an emergency exists and time does not permit a competitive process, the Department Head may authorize any employee to acquire required deliverables in an expedited manner.

Where circumstances permit, the Department Head or delegate, must notify and work with the Manager of Procurement Services to complete the emergency purchase. Where the circumstances require the Department Head to proceed without the involvement of the Manager of Procurement Services, the Department Head must notify the Manager of Procurement Services of the emergency purchase as soon as possible.

If the value of the emergency purchase exceeds \$100,000 the Department Head must obtain the prior approval of the CAO and, as soon as reasonably possible, should the emergency purchase exceed the approved budget, an information report explaining the circumstances of the emergency must be submitted in a timely manner to Council explaining the circumstances of the emergency purchase.

For the purposes of this policy, an emergency exists when an unforeseeable situation or event occurs that is determined by a Department Head or the CAO to be a threat to any of the following:

- a. public health and/or safety;
- b. the maintenance of essential services;
- c. the welfare of persons or public property; or
- d. the security of the Town's interests.

Situations of urgency resulting from the failure to properly plan for a procurement do not constitute an emergency.

5.18 Contracting Authority

Contracts must be awarded in accordance with this policy and the applicable procedure(s) governing the procurement process and must be approved in accordance with the Authorization Schedule in Schedule C.

A contract may be entered into through the execution of a formal legal agreement and/or the issuance of a purchase order evidencing the contract. The contract must be entered into prior to the delivery or provision of the deliverables.

5.19 Contract Extensions and Amendments

Contract extensions and amendments must not be used to expand a contract beyond what was contemplated under the terms of the contract and the original procurement process, or to circumvent the need to procure additional deliverables through a competitive process in accordance with this policy.

If a contract amendment results in a net increase to the contract value previously approved, the amendment must be approved in accordance with the Authorization Schedule in Schedule C, based on the new total procurement value.

5.20 Supplier Relations

1. Debriefings

Where the Town has conducted an Open Competition, unsuccessful suppliers may request a debriefing. Debriefings must be managed and conducted in accordance with the Bidder Debriefing Procedure.

2. Procurement Protests

Suppliers may formally protest the outcome of a procurement process. Procurement protests must be managed and responded to in accordance with the Procurement Protest Procedure.

3. Contract Management

All contracts for deliverables must be managed by the Department in accordance with the Contract Management Procedure.

All potential contract disputes with suppliers must be managed in accordance with the dispute resolution mechanisms outlined in the contract. Where a contract is silent on dispute resolution, the Department should ensure that potential disputes are proactively managed and appropriately escalated.

4. Supplier Performance

The performance of a supplier under contract must be monitored and tracked by the Department in accordance with the Supplier Performance Evaluation Procedure.

5. Supplier Suspension

Suppliers can be suspended from participating in future procurement processes in accordance with the Supplier Suspension Procedure.

5.21 Recordkeeping and Reporting

1. Supplier Information

The Town must ensure that supplier information submitted in confidence in connection with a procurement process or contract is adequately protected. Procurement Services and the Departments must ensure that all bids and contracts are kept in a secure location and only accessible by those individuals directly involved with the procurement or management of the contract. Confidentiality of bids and supplier's proprietary information shall be maintained in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.

2. Procurement Records

The maintenance, release and management of all procurement records must be in accordance with the Town's policies and procedures on document management and the *Municipal Freedom of Information and Protection of Privacy Act*.

Procurement Services is responsible for ensuring that all documentation relating to a procurement is properly filed and maintained in a procurement project file.

3. Compliance Monitoring

Non-compliance with this policy may expose the Town to the risk of supplier complaints, reputational damage, bid disputes, legal challenges and financial consequences.

Department Heads are required to observe and address non-compliance with this policy within their Departments. Where instances of non-compliance are identified, the Department Head is expected to notify the Manager of Procurement Services and obtain advice with respect to mitigating potential risks to the Town arising from the non-compliance.

The Manager of Procurement Services is responsible for monitoring compliance across the organization. Based on the results of compliance monitoring, reports outlining instances of non-compliance may be issued by the Manager of Procurement Services to the relevant Department Head. The Department Head must address the identified compliance concerns and submit a written confirmation of actions taken to the Manager of Procurement Services.

Employees are accountable for their decisions and action. Breaches of this policy may be subject to disciplinary action in accordance with the Town's Progressive Discipline Policy, or as amended from time to time.

Issues that cannot be reconciled are escalated to the General Manager and, where necessary, the CAO.

4. Reporting

The Manager of Procurement Services will prepare a quarterly information report summarizing the Town's procurement activities, including an analysis of spend and procurement strategies and the details of all contracts with a value exceeding \$50,000 that were awarded pursuant to delegated authority. The quarterly information report shall be made available to Council.

5.22 Disposal of Surplus and Obsolete Goods

The Department Head shall notify Procurement Services of any item that has been deemed as surplus or obsolete so that the item may be disposed of or sold. If the estimated residual value is greater than \$20,000, the Department Head shall obtain the approval of the CAO prior to sale.

Procurement Services will circulate a list of surplus items, other than intended trade-ins, to all departments prior to the sale or disposal of such items and offer the items to departments free of charge. Trade-ins and other disposal of fleet assets shall follow the process set out in the Town's Fleet Management Policy.

Surplus or obsolete items not required by any other department shall be sold or disposed of by Procurement Services via formal auction, internet auction, publicly advertised request for offers or trade-in. Any remaining surplus items shall be given to a non-profit entity at the discretion of the Manager of Procurement Services.

The disposition shall be documented and revenue generated from the sale of surplus items shall be credited to the appropriate account as determined by the Treasurer or delegate.

6. Implementation

This policy shall become effective on September 12, 2022 upon approval by Council and shall be administered by the Procurement Services branch of the Finance Department.

This Policy will be reviewed every five (5) years, or such earlier date as the Manager of Procurement Services, Treasurer, or Council may consider appropriate to evaluate its effectiveness.

Attachments:

- [Procurement Policy Schedule A](#)
- [Procurement Policy Schedule B](#)
- [Procurement Policy Schedule C \(revision 1\)](#)
- [Procurement Policy Schedule D](#)

Approved By:

Alison Gallant, CPA, CMA,
Director, Financial
Services/Treasurer

Lori Bedford, GM of Corporate
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Department:

Finance

Corporate Services Division

CAO

Status:

Approved - 05 Aug 2022

Approved - 05 Oct 2022

Approved - 17 Oct 2022

Schedule A – Exclusions

The following acquisitions and expenditures are excluded from the application of the Procurement Policy:

1. Employer Expenses

- a) Staff recognition expenses, which has the meaning set out in the Town's Employee Recognition Policy and Recognition of Life Events Policy
- b) Staff education, memberships and licensing expenses, which has the meaning set out in the Town's Continuous Education Policy and the Conditions of Employment, and may include related subscriptions to newspapers, professional magazines, books or other periodicals
- c) Employment contracts and accompanying expenses, which has the meaning set out in the Recruitment and Selection Policy and the Conditions of Employment, and includes reimbursable employee expenses such as travel, meals, mileage and accommodation expenses, and recreation program facilitators, whether operating under an employment contract or other

2. General and Operating Expenses

- a) Payment to government or public sector entities, subsidiaries, shareholdings, regulatory authorities or entities founded by other government or public sector entities (e.g. TSSA, ESA, AMO, Canada Post, Hydro One, OMERS, tax remittance, property tax, water and wastewater charges, utility fees), or where specific funds provided by other government or public sector entities or their subsidiaries has been directed to flow through to a specified third party entity
- b) Financial services respecting the management of financial assets (investments) and liabilities (sale, redemption and distribution of public debt, including loans and government bonds, notes and other securities)
- c) Legal services, insurance settlements, and expenses respecting the management of claims, litigation or potential litigation (e.g. damage claims, court fees, arbitration, legal advice and representation, health services, witness fees)
- d) Any form of assistance that the Town provides, including cooperative (e.g. inter-municipal) agreements, contributions respecting development (e.g. local municipal servicing and parkland), grants, donations, loans, equity infusions, guarantees, fiscal incentives, rebates, ratepayers or customers reimbursement or refunds
- e) Council, Board, Commission and Committee Appointments and accompanying expenses, which has the meaning set out in the *Municipal Act*

3. Special Services

- a) Purchase, lease or disposition of real property (land, existing buildings or other immovable property or the rights thereon), accompanying fees, facility use agreements, naming rights, sponsorship, etc.
- b) Commemorative Naming, which has the meaning set out in the Town's Commemorative Naming Policy
- c) Radio, digital and newsprint communication which has a demographic or geographic consideration (e.g. content intended for a particular population of residents)

Schedule B – Non-Standard Procurement

Deliverables may only be acquired through a Non-Standard procurement process where a circumstance(s) described below exists.

1. The procurement value is below \$100,000 and it is determined by the CAO, in consultation with the Manager of Procurement Services, to be in the best interests of the Town to proceed with a Non-Competitive Procurement.
2. The procurement is otherwise exempt from the open competition requirements under all applicable trade agreements and it is determined by the CAO, in consultation with the Manager of Procurement Services, to be in the best interests of the Town to proceed with a Non-Competitive Procurement.
3. An Open Competition was conducted for the required goods or services and did not result in the receipt of any valid bids.
4. The procurement is for:
 - goods intended for resale to the public;
 - goods purchased on a commodity market;
 - financial services not already excluded from this policy;
 - health services;
 - social services; or
 - legal services not already excluded from this policy
5. The deliverables are to be procured from a government entity or public body.
6. It can be demonstrated that the goods or services can be supplied only by a particular supplier and no alternative or substitute exists for the following reason(s):
 - There is an absence of competition for technical reasons.
 - The protection of patents, copyrights or other exclusive rights.
 - The requirement is for a work of art.
7. The procurement is for additional deliveries by the original supplier of goods or services that were not included in the initial procurement if a change of supplier for such additional goods or services:
 - cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and
 - would cause significant inconvenience or substantial duplication of costs for the Town.
8. The procurement is for goods or consulting services regarding matters of a confidential or privileged nature and the disclosure of those matters through an Open Competition could

reasonably be expected to compromise government confidentiality, result in the waiver of privilege, cause economic disruption or be contrary to the public interest.

9. The procurement is for:

- a prototype or a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases;
- goods available under exceptionally advantageous circumstances that only arise in the very short term, such as liquidation, bankruptcy or receivership; or
- a contract to be awarded to the winner of a design contest and the contest was organized in a fair and transparent manner and was advertised by publicly posted notice and participants were judged by an independent jury.

10. When strictly necessary if, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using standard procurement (see Emergency Purchases).

Schedule C – Authorization Schedule

A. PROCUREMENT APPROVAL AUTHORITY

1. Delegated Approval Authority

The delegation of approval authority includes the authority to:

- (a) approve the selection of pre-qualified bidders in a multi-stage Open Competition; and
- (b) approve the award of the contract.

Departments may self-determine a higher level of authority than specified in the table; however, unless otherwise stated in the table, delegation of the duties and authorities to a lower authority level is not permitted.

2. Conditions of Delegated Approval Authority

Delegated approval authority is subject to the following conditions:

- (a) sufficient funding is available in an approved budget;
- (b) the procurement process was conducted in accordance with this policy and all applicable policies and procedures; and
- (c) in the case of a competitive process, the contract is awarded to the top-ranked bidder, as determined in accordance with the evaluation and selection process set out in the solicitation document; and
- (d) in the case of a Non-Standard Procurement, approval is only given under the specific circumstances set out in Schedule B.

Where the approval authority is delegated to multiple individuals, all of those individuals must be satisfied that the above conditions of delegated authority are met.

If any of the applicable conditions of delegated authority are not met, Council approval must be obtained before proceeding with any procurement activity.

B. CONTRACT ISSUANCE OR EXECUTION

1. Authorized Signatories

The Manager of Procurement Services has delegated authority to issue purchase orders on behalf of the Town and may further delegate this authority to other employees.

Agreements must be executed on behalf of the Town by the Mayor and the Clerk unless Council has expressly delegated the authority to execute the agreement to another officer or employee of the Town.

2. Conditions of Delegated Authority

No contract may be entered into, either through the issuance of a purchase order or the execution of an agreement, unless:

- (a) approved funding in an amount sufficient to cover the procurement value is available;
- (b) the procurement process was conducted in accordance with this policy and applicable procedures; and
- (c) all required approvals have been obtained.

If any of the applicable conditions of delegated authority are not met, Council approval must be obtained before proceeding with any procurement activity.

C. CONTRACT EXTENSIONS AND AMENDMENTS

1. Contract Extension Options

Where an existing contract includes extension or renewal options to permit the Town to extend the term of the contract and/or to purchase additional deliverables under the contract, the option may be exercised, provided that:

- (a) the contract was awarded in accordance with this policy based on the total procurement value, including the value of the extension options;
- (b) resubmit if changes cause the awarded purchase order value to increase by more than 5% or to be scrutinized by another set of approvers; and
- (c) sufficient funding is available in an approved budget. If sufficient funding is not available in an approved budget, Council approval must be obtained for the additional expenditure.

2. Contract Contingency Funds

Where any contract has been authorized pursuant to this policy, disbursement of additional funds required to complete works that are necessary as part of the original scope of the contract and do not expand the scope of work under the contract beyond what was expressly contemplated under the original procurement, may be authorized, provided that:

- (a) sufficient funding is available in an approved budget. If sufficient funding is not available in an approved budget, Council approval must be obtained for the additional expenditure;
- (b) the contract was awarded in accordance with this policy based on the total procurement value, including the value of the contingency and any extension options;
- (c) resubmit if changes cause the awarded purchase order value to increase by more than 5% or to be scrutinized by another set of approvers; and
- (d) procurement contingency is administered in keeping with Section 5, subsection 2.0 of the Capital Project Administration and Reporting Policy, or other policy which the Town may implement from time to time.

3. Contract Scope Changes

Any expansion or extension of a contract to procure deliverables that were not contemplated in the original procurement is considered a Non-Standard Procurement and must be approved in accordance with the Authorization Process set out in Part B of this Schedule and the Town's Non-Standard Procurement Procedure.

Method / Procurement Description	Procurement Value	Typical Format Stream	Minimum Number of Suppliers to be Included	Procurement Document Issued By	Solicit By	Authority to Approve the Procurement Award	Authority to Execute Agreement (if required)	Include in Quarterly Council Report	Payment Vehicle
Low Value Procurement									
Goods, Services or Construction	Less than \$5,000	N/A	Single	Not required, may be department directed / delegated	Informal communication (e.g. phone, etc.)	Department Supervisor	Department Head and Purchasing	No	Pcard (cardholder limits apply), or Invoice with Cheque Voucher
Goods, Services or Construction	\$5001 - \$10,000	N/A	Single	Not required, may be department directed / delegated	Informal communication (e.g. phone, etc.)	Department Capital Supervisor or Manager	Department Head and Procurement Services	No	Pcard (cardholder limits apply), or Invoice with Cheque Voucher

Special Note: It is anticipated a large volume of the above will be conducted in accordance with and governed by the Purchasing Card Policy; however, in some circumstances vendor may request a purchase order or agreement which would follow the above.

Invitational Competition

Goods, Services or Construction	\$10,001 - \$50,000	Invitational RFQ (Low Bid)	3 quotes	Department Supervisor / Project Manager	Formal communication (e.g. email, letterhead, etc.)	Department Manager	Department Head and Procurement Services	No	Purchase Order, or Pcard (cardholder limits apply)
Goods, Services or Construction	\$50,001 - \$100,000	Invitational RFQ	3 quotes	Procurement Services, unless delegated to Department Manager	Formal communication (e.g. email, letterhead, etc.)	Department Manager and Director	Department Head and Manager of Procurement Services	Yes	Purchase Order

Open Competition

Goods, Services or Construction	\$100,001 - \$500,000	RFP, RFQ or ITT	Open Competition	Procurement Services	Bidding system	Department Manager and Director	Department Director and Treasurer	Yes	Purchase Order
Goods, Services or Construction	Greater than \$500,000	RFP, RFQ or ITT	Open Competition	Procurement Services	Bidding system	Department Manager, Director and CAO, unless delegated to GM and Treasurer	Department Director and CAO, unless delegated by CAO	Yes	Purchase Order
Create Qualified Supplier Roster or Standing Offer for Goods, Service or Construction	Any value	RFSQ	Open Competition	Procurement Services	Bidding system	Department Director and Manager of Procurement Services	Department Head and Procurement Services	No	N/A

Special Note: Orders from Qualified Supplier Rosters or other agreement will follow the award authority and agreement authority, if applicable, described above

Non-Standard Procurement

Limited Competition or Emergency Goods, Services or Construction	\$10,000 - \$100,000	Invitational RFQ Template	Less than 3 Quotes	Department Manager	Email	Department Director, GM and Manager of Procurement Services	GM and Manager of Procurement Services	Yes	Purchase Order, or Pcard (cardholder limits apply)
Non-Competitive or Emergency Goods, Services or Construction	Greater than \$100,000	N/A	1 Quote	N/A	No solicitation document	CAO, unless delegated to GM and Treasurer	CAO, unless delegated to GM and Treasurer	Yes	Purchase Order

* If a department hierarchy does not include the position specified within the above matrix, the authority would be delegated to the next level based on department structure (e.g. in absence of a departmental supervisor position, delegation is the department manager)

If a Department anticipates making multiple Procurements of the same deliverables and the total value of those purchases may exceed competition thresholds, the Department must contact Procurement Services to discuss the establishment of a supply arrangement.

For Co-operative (Joint) Procurement with a third-party organization (e.g. OECM), seek the assistance of Procurement Service

Schedule D – Supplier Code of Conduct

The Town requires its suppliers to act with integrity and conduct business in an ethical manner. The Town may refuse to do business with any supplier that has engaged in illegal or unethical bidding practices, has an actual or potential conflict of interest or an unfair advantage, or fails to adhere to ethical business practices.

Suppliers are responsible for ensuring that any employees, representatives, agents or subcontractors acting on their behalf conduct themselves in accordance with this Code of Conduct. The Town may require the immediate removal and replacement of any individual or entity acting on behalf of a supplier that conducts themselves in a manner inconsistent with this Code of Conduct. The Town may refuse to do business with any supplier that is unwilling or unable to comply with such requirement.

(a) Illegal or Unethical Bidding Practices

Illegal or unethical bidding practices include:

- bid-rigging, price-fixing, bribery or collusion or other behaviours or practices prohibited by federal or provincial statutes;
- offering gifts or favours to the Town's officers, employees, appointed or elected officials or any other representative of the Town;
- engaging in any prohibited communications during a procurement process;
- submitting inaccurate or misleading information in a procurement process; and
- engaging in any other activity that compromises the Town's ability to run a fair procurement process.

The Town will report any suspected cases of collusion, bid-rigging or other offenses under the Competition Act to the Competition Bureau or to other relevant authorities.

(b) Conflicts of Interest

All suppliers participating in a procurement process must declare any perceived, possible or actual conflicts of interest. All suppliers under contract with the Town must declare any perceived, possible or actual conflicts of interest that arise during the term of the contract.

The term "conflict of interest," when applied to suppliers, includes any situation or circumstance where:

- in the context of a procurement process, the supplier has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to:

- (i) having, or having access to, confidential information of the Town that is not available to other suppliers;
 - (ii) having been involved in the development of the procurement document, including having provided advice or assistance in the development of the procurement document;
 - (iii) receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the procurement document;
 - (iv) communicating with any person with a view to influencing preferred treatment in the procurement process (including but not limited to the lobbying of decision makers involved in the procurement process); or
 - (v) engaging in conduct that compromises, or could be seen to compromise, the integrity of an open and competitive procurement process or render that process non-competitive or unfair; or
- in the context of performance under a potential contract, the supplier's other commitments, relationships or financial interests:
 - (i) could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement; or
 - (ii) could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

Where a supplier is retained to participate in the development of a solicitation document or the specifications for inclusion in a solicitation document, that supplier will not be allowed to respond, directly or indirectly, to that solicitation document.

(c) Ethical Business Practices

In providing deliverables to the Town, suppliers are expected to adhere to ethical business practices, including:

- performing all contracts in a professional and competent manner and in accordance with the terms and conditions of the contract and the duty of honest performance;
- complying with all applicable laws, including safety and labour codes (both domestic and international as may be applicable); and
- providing workplaces that are free from harassment and discrimination.