

STAFF REPORT: Financial & Information Services

REPORT TO: Council
MEETING DATE: September 27, 2010
REPORT NO.: FIS.10.43
SUBJECT: Purchasing Policy Proposed Amendments
PREPARED BY: Sherri Adams, Manager of Purchasing

A. Recommendations

THAT Council receive Staff Report FIS.10.43 "Purchasing Policy Proposed Amendments" and enact a By-law so as to amend Corporate Policy POL.COR.07.05, Purchasing of Goods and Services Policy, as outlined in the report and the previously approved Staff report EPW.10.001, "Refusal of Bid Responses", and

FURTHER THAT Council does receive the revised Draft Administrative Procedures FS.08.08, "Purchasing Procedures" for information purposes.

B. Background

The *Municipal Act, 2001* requires a municipality to adopt a Policy with respect to the procurement of goods and services so as to increase the accountability and transparency of the procurement process.

The Purchasing of Goods and Services Policy, POL.COR.07.05, was enacted by By-law in 2008, to address the requirements of the act. Senior Management Team has recently completed the two year review of the policy and recommends the following amendments of the policy to Council for consideration:

1. Co-operative Purchasing clause amended to remove the requirement of Council approval for the Town's participation;
2. Refusal of Bid Responses clause amended as per Staff Report EPW.10.001, as approved by Council on January 25, 2010;
3. Personal Purchasing of Goods and Services clause amended to include "spouse of an employee" and a "spouse of a member of Council";
4. Purchasing threshold amendments as follows:
 - a. Open Market starting threshold increased from \$0 to \$2,500;
 - b. Requests for Proposals, Standardizations, Negotiated Procurement and Emergencies starting threshold increased from \$2,501 to \$5,001;
 - c. Informal Request for Quotations range increased from \$2,501-\$10,000 to \$5,001- \$15,000;
 - d. Formal Quotations starting thresholds increased from \$10,001-\$15,001;

5. Lower Tier Approval (less than \$100,000) amendments as follows:
 - a. Requests for Proposals, Standardizations, Negotiated Procurement approvals \$5,001 to \$50,000 by Department Head and Manager of Purchasing; \$50,001 to \$100,000 by the Tender/Proposal Award Committee;
 - b. Formal Request for Quotation approvals jointly between the Department Head and the Manager of Purchasing;
6. Authority to Execute Contracts amended to appoint specific individuals authorized to sign contracts below \$100,000.
7. Review Cycle amended to require a review of the policy, at least once during every term of Council.

All awards made by the Tender/Proposal Award Committee between \$50,001 and \$100,000 will continue to be sent to Council for their information. Awards that exceed \$100,000 will continue to require the approval of council.

The "DRAFT" Purchasing Procedures FS.08.08 has been amended to coincide with the proposed amendments as stated above for the Purchasing Policy.

Financial Services Staff will continue to provide training on the Purchasing Policy and the Purchasing Procedures, to all Town Staff to ensure compliance and efficiency.

C. The Blue Mountains' Strategic Plan

6. Providing a strong, well managed municipal government.

D. Environmental Impacts

The Eco-Procurement Working Group has been working diligently to produce an Eco Procurement Guide. All departments are represented in the working group. The Group anticipates implementation of the Guide late this year or early next year.

E. Budget Impact

Compliance with the Town's purchasing policy ensures responsible spending of the Town's approved budgets. The competitive bid process has produced cost savings for the Town on many projects, since the Policy's inception and implementation in 2008.

F. Attached

1. Purchasing of Goods and Services Policy, POL.COR.07.05
2. Purchasing of Goods and Services Procedures, FS.08.08
3. Staff Report EPW.10.001, Refusal of Bid Responses
4. Draft By-law to amend a policy of the Town detailing the procurement of goods and services

Respectfully submitted,

Sherri Adams, Manager of Purchasing

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TOWN OF THE BLUE MOUNTAINS

POLICY

Subject Title: Purchasing of Goods and Services Policy

Corporate Policy (Approved by Council)	<input checked="" type="checkbox"/>	Policy Ref. No.:	POL.COR.07.05
Administrative Policy (Approved by CAO)	<input type="checkbox"/>	By-law No.:	2008 - 94
Department Policy: (Approved by Mgr.)	<input type="checkbox"/>	Name of Dept.:	Financial & Information Services
Date Approved:	October 15, 2008	Staff Report:	FS.08.48
Date Revised:	September 27, 2010	Staff Report:	FIS.10.43

Policy Statement

The provision of a Purchasing Policy as required by Section 270 of the *Municipal Act, 2001*, requires that municipalities shall adopt and maintain policies with respect to the procurement of goods and services.

Purpose

The purpose of this Policy is to:

1. Ensure openness, accountability and transparency while protecting the financial best interest of the Town of The Blue Mountains.
2. Set out guidelines for the Municipality to ensure that purchases of goods and services are made on a competitive basis at a best value consistent with the quality and service required and availability. Open Market, Standardization, Negotiation and Emergency activities will be undertaken having a spirit of achieving best overall value.
3. Comply with Section 270 of the *Municipal Act, 2001*, as amended.

Application

This policy applies to the Town of The Blue Mountains with respect to the Town's procurement activities.

Definitions

In this policy:

- a) "CAO" means the Chief Administrative Officer of the Town or Designate.
- b) "Clerk" means the Clerk of the Town or Designate.
- c) "Contract" includes the purchase of goods and services by or on behalf of the Town and execution of purchase orders, written agreements and contracts as required.
- d) "Council" means the Municipal Council of the Town of The Blue Mountains.
- e) "Department Head" means the Head of a specific Department, or CAO, who is responsible for a departmental budget for the Town, or Designate.
- f) "Designate" means the person or persons assigned the duties and responsibilities on behalf of and in the absence or incapacity of the person charged with the principal authority to take the relevant action or decision.
- g) "Evaluation Committee" means Town staff that has been selected to review the submissions received from respondents in response to a call for request for proposals.
- h) "Formal Contract or Formal Agreement" means a contract or agreement that is to be signed by the Clerk and the Mayor following a recommendation from Council to do so.
- i) "Goods" include but are not limited to goods, supplies, wares, merchandise, materials, and equipment used or required by the Town.
- j) "Mayor" means the Mayor or Designate.
- k) "Manager of Purchasing" means the Manager of Purchasing for the Town or Designate under the authority of this Policy.
- l) "Purchasing Card" means the payment card used by Town staff to purchase a good or service.
- m) "Purchasing of Goods and Services Procedure" means the Administrative Policy for the purchasing procedures for goods and services as approved by the CAO and the Treasurer.
- n) "Purchase Order" means a written authorization for a vendor or supplier to ship products or provide a service at a specified price, which becomes a legally binding contract once the supplier accepts it.

- o) "Respondent" means a person who submits a response to a Town's solicitation for goods or services, and "Bidder" or "Offerer" or "Tenderer" shall have the same meaning.
- p) "Responsible Bidder" means a bidder or offerer who is deemed to be fully technically and financially capable of supplying the goods or services requested in the solicitation.
- q) "Responsive Bidder" means a bidder or offerer who correctly and completely meets all requirements of the bid documents.
- r) "Services" may include, but are not limited to, telephone, gas, water, hydro, janitorial and cleaning services, consultant services, legal surveys, medical services, insurance, and the rental, repair or maintenance of equipment, machinery or other personal property.
- s) "Signing Authority" means the specific individual signing authorities approved by the Director of Financial Services based on the guidelines contained herein and apply to purchase order requisitions, cheque requisitions and petty cash, quotations, tenders, proposals, standardizations, negotiations and emergency purchases.
- t) "Standardization" means a process which provides for the need of a single source for goods and/or services and has been clearly identified and approved.
- u) "Tender/Proposal Award Committee" means the committee comprised of the CAO, Manager of Purchasing and the affected Department Head(s) of the Town.
- v) "Town" means the Town of The Blue Mountains.
- w) "Town's Solicitor" means a solicitor on staff or contract solicitor who has been retained to act on behalf of the Town.
- x) "Treasurer" means the Treasurer or the Director of Financial and Information Services of the Town or Designate.
- y) "Vendor" means a seller who exchanges goods or services for money.

Procedures

Subject to other provisions of the *Municipal Act, 2001* and following the procedures contained herein and other Town approved Administrative procedures.

INTEGRITY OF THE PURCHASING PROCESS AND PROTECTING THE INTERESTS OF THE TOWN

1. In order to maintain the integrity of the bid solicitation processes and to protect the interests of the Town, the public and persons participating in a procurement

process, the following shall be adhered to for any purchasing which is subject to the requirements of this Policy:

- a) Open Process:
Departmental needs are clearly communicated to the Bidders. The method of evaluating the Bid and evaluation criteria is provided to the Bidders at the outset of the Bid Solicitation process. The terminology used in the competitive bidding documents is defined and interpreted within the document when issued. The method and format of submitting Bids is addressed in the Bid Selection document.
- b) Fairness:
Utilize standard documents for Instructions to Bidders, Terms and Conditions and Bidding Forms to ensure consistency of content and format within the documents issued by the Town. Specify clearly all details regarding the closing date, time and location of all Bid Solicitation processes and apply the rules of bid acceptance consistently. Treat all bidders and all submissions equally and without bias or favouritism at all times.
- c) Accessibility:
Develop specifications and terms of references that whenever possible, are not restrictive and allow for open competition from the marketplace. Advertise all formal public Tenders and Requests for Proposals on the internet in order that the competitive bidding opportunity be advertised and accessible to all interested firms. Advertise the competitive bidding opportunity in a specific trade newspaper or local newspaper where practicable to further promote competition.
- d) Accountability:
Ensure that all bids are kept secure prior to the closing date, during the evaluation period and following contract award. Handle all proprietary information and Bids submitted in confidence in accordance with the Municipal Freedom of Information and Protection of Privacy Act. Ensure that Requests for Proposals are evaluated by representatives from more than one Department, when feasible to do so, to allow for various perception and opinions when reviewing, evaluating proposals prior to contract award. Ensure that all Bids, rating results and related supporting documentation are kept on file in accordance with the Town's Retention By-law for future reference, audit or examinations. The expected behaviour of public officials shall adhere to accountability and transparency policies as they apply. Ensure that procurement procedures are reviewed on a regular basis to ensure the procedures are clear, logical, and current and in accordance with accepted industry standards. Include conflict of interest guidelines in all competitive bidding documents to minimize the risk of potential suppliers trying to influence Town Staff and elected officials during the bid evaluation process.

2. Provisions for Purchasing

The following provisions shall apply to the purchase of goods and/or services by individuals approved by the Treasurer, in writing, within their **signing authority**.

- a) Every purchase shall require the transaction of an electronic purchasing card, purchase order, or other form as prescribed by the Treasurer, to be approved and authorized by the Manager of Purchasing or Department Heads.
- b) The Manager of Purchasing and Department Heads must submit, no less than 10 days prior to the payment due date, the purchasing card statement complete with each signed transaction slip, packing slip, and/or vendor invoices as provided with the purchase for quotation / tender / proposal awards, as well as open market purchases.
- c) Sufficient budget approval by Council must exist for every purchase, with the exception of purchases required for emergency situations.
- d) **Where, in the opinion of the CAO and/or Town's Solicitor, the vendor requires a different form of commitment from the above, a contract in a form satisfactory to the CAO and/or Town's Solicitor shall be the form of commitment.**

3. Powers of the Manager of Purchasing

The Manager of Purchasing, within the parameters of this policy, is hereby authorized to make purchases, not exceeding the approved signing authority; and provide approvals as required by the Town in accordance with this policy, and to ensure staff follow the policy requirements, instruct staff on the use of the policy and manage procurement records.

4. Powers of the Treasurer

- a) The Treasurer shall have the final interpretation of this policy.
- b) The Treasurer is hereby authorized to pay for any goods and/or services purchased by the Manager of Purchasing and Department Head(s) in accordance with this policy, upon receipt of:
 - i) A request for payment endorsed by the Department Head(s) or Manager of Purchasing acknowledging receipt of the goods and/or services on behalf of the Town, together with an electronic purchasing card slip or purchase order as approved by the Department Head(s) or Manager of Purchasing or contract documents as approved by the Town's Solicitor.
 - ii) An invoice endorsed by the Department Head(s) or Manager of Purchasing, indicating the receipt of such, the price thereof and the

appropriate account to be charged, within the budget allocations and not to exceed the approved signing authority.

5. Powers of Department Head(s)

Department Head(s), within the parameters of this policy, are hereby authorized to make purchases required by the Town, and within their respective budget allocations and not exceeding the approved signing authority, subject to the guidelines contained herein.

Department Head(s) are responsible for departmental spending, and as such may designate signing authority to their departmental staff by way of written authorization, in the form prescribed by the Treasurer and approved by the Treasurer, not to exceed the Department Head's approved signing authority, subject to the guidelines contained herein.

6. Powers of the CAO

The CAO, within the parameters of this policy, is hereby authorized to make purchases required by the Town, within the respective budget allocations, not exceeding the approved signing authority, subject to the guidelines contained herein.

7. Powers of the Tender / Proposal Award Committee

The Tender / Proposal Award Committee, within the parameters of this policy, are hereby authorized to make awards for Tenders from \$50,001 - \$100,000 and \$25,001 to \$100,000 for Requests for Proposals within the respective budget allocations. Awards exceeding \$100,000 shall be made by Council with a recommendation from the Tender / Proposal Award Committee.

8. Inspection of Goods and Services

- a) Department Head(s) shall be responsible to inspect all deliveries of goods and services to determine whether they meet the quantity and specifications set out in the Purchase Agreement, purchase order or formal contract with the vendor.
- b) The Manager of Purchasing or Department Head(s) shall be responsible for the return of all supplies and termination of all formal contracts in writing which do not meet specifications as set out in the purchase agreement, purchase order or formal contract documents. Legal assistance may be required in such matters.

9. Co-operative Purchasing

The Manager of Purchasing and Department Head(s) are hereby authorized to participate in co-operative purchasing arrangements with other municipalities, counties/regions, associations, local boards and public agencies within the

Province. The procurement policies or procurement by-law of the host agency will apply upon the Manager of Purchasing and Department Head(s) satisfying themselves that the host agency will be proceeding to the open market to obtain competitive pricing.

10. Environmentally Friendly Procurement

The Town shall show environmental leadership through its procurement practices. It is anticipated that the Town will buy “green” when feasible.

While environmentally sound products may not represent lowest first cost, they do frequently represent “best value” to the Town. In making the “best value” decision, the Town will consider local and operational benefits related to life cycle costs, water efficiency, energy efficiency, both indoor and outdoor air quality, water and soil quality, worker health and safety, and the Town’s reputation as good environment stewards.

To this end, the Town will develop an “Eco Procurement Guide” which will be revised and updated from time to time. The Town will rely on the then current guide when making its purchasing decisions.

The Town prefers to have partnerships and business relationships with those who demonstrate a similar environmental ethic and commitment to that of the Town.

To this end, all Requests for Proposals shall contain a section entitled “Environmental Stewardship”. This section will require any respondent to outline the environmental benefits of their product or service. The respondents shall also list any environmental actions implemented in their day to day internal operations.

Finally, the evaluation matrix for all Proposals shall include points for “Environmental Stewardship”.

11. Life Cycle Costing

Life cycle costing requires long term and sustainable thinking. This will require those making purchasing decisions to consider both first cost and life cycle operating/maintenance costs.

Life cycle cost analysis is common in the business world but currently it is rarely utilized in the municipal sector. The Town of The Blue Mountains will move to lifecycle analysis then making purchasing decisions and asset management decisions. For example, initial costs represent only 15% of a building’s total cost according to the National Research Council. Lifecycle view will help the Town ensure that early purchasing decisions do not result in higher long term overall costs.

The Town will provide Staff training to complete the integration of life cycle cost analysis into the Town's business as normal routine. Following training Purchasers will be expected to start using life cycle cost analysis as a regular tool, remembering that cost is not the only factor to consider when making purchasing decisions.

12. Council Authorization Required

- a) Except as provided in this policy, no Committee established by Council, no member of Council and no employee of the Town shall enter into any contract on behalf of the Town without express authority from Council.
- b) No employee of the Town or member of Council shall support, approve, condone or pay for any contract entered into contrary to clause 12 (a) above.

13. Personal Purchasing of Goods and Services

- a) No good or service in excess of \$500 shall be purchased by the Town from any employee or spouse of the Town or member of Council or spouse of a member of Council without the express authority from Council.
- b) Any employee of the Town shall not make or authorize personal purchases for any member of Council or for any employee of the Town, subject to approved policies.
- c) Employees of the Town will not influence or accept preferential treatment in regard to acquiring personal goods and/or services from the vendor community, subject to approved policies.

14. Purchasing Procedures

Subject to the provisions of this Policy, procedures for purchasing are described in the Administrative Policy entitled "Purchasing for Goods and Services Procedures" FS.08.08, and will be used in purchasing goods and/or services for the Town. Total purchase amounts and approval levels are listed below for:

- a) Tendering procedures shall apply where the total purchase price per project or annually, is expected to be \$50,001 or more. The Tender/Proposal Award Committee shall have the authority to award contracts as described in clause 7, herein.
- b) Formal Quotation procedures shall apply where the total purchase price is expected to be \$15,001 to a total amount of \$50,000. Department Head(s) jointly with the Manager of Purchasing shall have the authority to award contracts in this level of purchase.

- c) Informal Quotation procedures shall apply where the total purchase price is expected to be \$5,001 to \$15,000. Department Head(s) and Staff designated with an approved signing authority shall be authorized to make this level of purchase.
- d) Open Market procedures shall apply where the total purchase price is expected to be \$0 to \$5,000. Department Head(s) and Staff designated with an approved signing authority shall be authorized to make this level of purchase.
- e) Requests for Proposals procedures shall apply when there are factors other than price that are critical and the ability to negotiate is desired or required. Request for Proposal procedures shall apply where the total purchase price is expected to be more than \$5,001. Department Head(s) jointly with the Manager of Purchasing have the approval to award from \$5,001 to \$50,000. The Tender/Proposal Award Committee shall have the authority to award \$50,001 to \$100,000. Request for Proposals that exceed \$100,000 shall be approved by Council.
- f) Negotiations and Single Source procedures may be applied by the Manager of Purchasing or Department Head(s), with prior written approval, when any of the conditions as described in the Procedures for the Purchase of Goods and Services apply with respect to negotiations and single source items, and where the total expected purchase price is more than \$5,001. Department Head(s) jointly with the Manager of Purchasing have approval for negotiations from \$5,001 to \$50,000. The Tender/Proposal Award Committee has approval for negotiations from \$50,001 to \$100,000. Negotiations that exceed \$100,000 shall be approved by the CAO and Council.
- g) Emergency Purchasing procedures shall apply where the total purchase price is expected to be more than \$5,001. Department Head(s) have authority for purchases from \$5,001 to \$25,000, with notification in writing to the CAO. For emergency purchases that exceed \$25,001, Department Head(s) shall submit a written report to the next possible Council meeting, with copies to the CAO, Treasurer and Manager of Purchasing.
- h) Standardization Purchasing procedures shall apply where the total purchase price is expected to be more than \$5,001. Department Head(s) jointly with the Manager of Purchasing have award approval for purchases from \$5,001 to \$50,000. The Tender/Proposal Award Committee has award approval for purchases from \$50,001 to \$100,000. Purchases exceeding \$100,000 require the approval of Council.

15. Total Expected Purchase Amount

Total Expected Purchase amount includes all expected costs associated with the purchase of the good or service with the exception of rebateable portion of the Harmonized Sales Tax (H.S.T.). Multi-year contract amounts shall be the total

costs expected for the duration of the contract with the exception of rebateable H.S.T. Costs associated with the purchase will include but not be limited to the following:

- a) Freight
- b) The Non-rebatable portion of the H.S.T.
- c) Disbursements
- d) Set up charges

The total expected purchase amount will be consistent with the budgeted expenditure amount.

16. Specification Development

Vendors or potential vendors shall not be requested to expend time, money or effort on design or in developing specifications or otherwise to help define a requirement beyond the normal level of service expected from vendors.

Where such services are required beyond the normal level of vendor services,

- a) The Manager of Purchasing must be advised;
- b) The contracted vendor will be considered a consultant and will not be allowed to make an offer for the supply of the good and/or service.
- c) A fee shall be paid, the amount of which shall be determined and agreed upon by the vendor before the services commence; and
- d) The detailed specifications shall become the property of the Town and can be used in obtaining competitive bids.

17. Refusal of Bid Responses

A) The Town of The Blue Mountains reserves the right not to accept a bid response from:

- i. Any person or corporation which includes any related corporation who, or which, has a claim or has instituted a legal proceeding against the Town, or against whom the Town has a claim or instituted a legal proceeding with respect to any previous contracts, bid submissions or business transactions who is listed as either the proposed general contractor or sub-contractor or vendor within the submitted responses;
- ii. Any person or corporation which includes any related corporation who, or which, is involved in pending litigation against the Town, or against whom the Town is involved in pending litigation with respect to any previous contracts, bid submissions or business transactions who is listed as either

the proposed general contractor or sub-contractor or vendor within the submitted responses;

iii. Any Bidder who has not performed works for previous Contracts in compliance with the Contract Documents at the sole discretion of the Town;

iv. Any Bidder who has previously breached a Contract with the Town as the sole discretion of the Town.

B) The Town will suspend a Bidder from bidding on Town Contracts for a term of up to five (5) years by Resolution of Council if:

i. The Bidder has not performed works for previous contracts in compliance with the Contract Documents;

ii. The Bidder has previously breached a Contract with the Town.

C) Notwithstanding that the Town will not accept a bid response for the reasons outlined in Section A), the vendor may make a deputation to Town Council to gain relief from the refusal to accept bids provided that:

i. The Bidder demonstrates that the proposed work is substantially different from the type of work from which the Town originally instigated the refusal to accept bids, and

ii. The Town Council grants relief from the refusal to accept bids prior to the scheduled bid opening date and time of work for which the Vendor wants to bid upon.

18. Division of Contracts Prohibited

No employees of the Town shall divide a purchase or a contract in order to avoid the requirements of any part of the Purchasing Policy or the Purchasing Procedures.

19. Authority to Execute Contracts

a) Subject to statutory requirements and where all the requirements of this policy have been met, the Mayor and Clerk, with approval from Council, have the authority to bind the Town and are authorized to execute contracts and agreements plus any ancillary documents that have been prepared in a form satisfactory to the Town's Solicitor, except where otherwise accepted in the policy and the schedules thereto.

- b) Department Heads in conjunction with the Manager of Purchasing have the authority to execute contracts between \$5,001 and \$50,000, subject to approval guidelines contained herein.
- c) The Department Head in conjunction with one other individual from the Tender Proposal Award Committee, responsible for a respective award, have the authority to execute contracts between \$50,001 and \$100,000.
- d) Where the form of contract is a purchase order, the Manager of Purchasing or Department Head may sign the purchase order, subject to approval guidelines contained herein.
- e) Without limiting the generality of anything else contained in this policy, or the seriousness of any other contravention of this policy, it shall be a serious contravention of this policy for any employee to execute a contract or other document in connection with a solicitation of goods or services if the execution of such contract or other document exceeds their authority.

Exclusions

Reference Schedule A – “Exceptions from Requirement of Purchasing Process”, within this Policy Document.

References and Related Policies

1. Section 270 of the *Municipal Act, 2001*, as amended
2. Under the financial controls and guidelines of PSAB
3. Accountability and Transparency Policy #POL.COR.07.01
4. Purchasing of Goods and Services Procedures, Policy # FS.08.08, as amended
5. Purchasing Card Policy # FS.08.10, as amended

Consequences of Non-Compliance

Non Compliance with the above References and Related Policies is subject to consequences of same.

Failure to adhere to the requirements outlined in this Policy may lead to progressive disciplinary action up to and including termination of employment.

Review Cycle

This policy will be reviewed at least once during every term of Council by the CAO / Council/ Senior Management Team.

SCHEDULE A
EXCEPTIONS FROM REQUIREMENTS OF PURCHASING PROCESS

Purchasing processes are not required for the following items unless specifically requested by the Treasurer:

1. Perishable Consumables and small items under \$100
2. Training and Education
 - a) Conferences
 - b) Courses
 - c) Conventions
 - d) Magazines
 - e) Memberships
 - f) Periodicals
 - g) Seminars
 - h) Professional development
 - i) Staff workshops
 - j) Subscriptions
3. Refundable Employee Expenses
 - a) Advances
 - b) Meal allowances
 - c) Miscellaneous – non-travel
 - d) Travel expenses
 - e) Entertainment expenses
 - f) Reimbursed employee expenses
4. Employer's General Expenses
 - a) Payroll deductions
 - b) Medicals
 - c) Licenses
 - d) Debenture payments
 - e) Insurance premium payments
 - f) Grants to agencies
 - g) Damage claims
 - h) Petty cash replenishment
 - i) Tax remittances
 - j) Property tax refunds
 - k) Workplace Safety and Insurance Board (WSIB) remittance
 - l) Building permit refunds
 - m) Employer and Employee compensation
 - n) Charges to or from other government agencies
 - o) Bank charges

SCHEDULE A
EXCEPTIONS FROM REQUIREMENTS OF PURCHASING PROCESS

5. Professional and Special Services

- a) Committee fees
- b) Counselling services
- c) Legal fees
- d) Appraisal charges
- e) Performance/artist's fees
- f) Honorarium
- g) Arbitrators
- h) Providers of artistic and recreational services, such as instructors, dance/yoga/gymnastic teachers, historical experts, and artistic designers.
- i) Witness fees
- j) Permit or application fees

6. Real Estate

- a) Purchase of Land and or Building
- b) Realty taxes
- c) Payments to real property

7. Utilities

- a) Postage
- b) Water and Sewage
- c) Hydro
- d) Gas
- e) Telephone (basic services)
- f) Cable Television Charges

Any other exceptions as approved by the Treasurer

TOWN OF THE BLUE MOUNTAINS

PROCEDURES

Subject Title: Purchasing of Goods and Services Procedures

Corporate Policy (Approved by Council)

Policy Ref. No.: FS.08.08

Administrative Policy (Approved by CAO)

X

By-law No.: none

Department Policy: (Approved by Mgr.)

Name of Dept.: Financial Services

Date Approved: October 23, 2008

Staff Report: FS.08.48

Date Amended: September, 2010

Staff Report: FIS.10.43

Policy Statement

Provision of procedures for the purchasing of goods and services for the Town of The Blue Mountains

Purpose

The purpose of these procedures is to provide employees of the Town of The Blue Mountains with procedures for purchasing in order to comply with the Town's Policy for the Purchasing of Goods and Services, Policy # POL.COR.07.05.

Application

This policy applies to employees of the Town of The Blue Mountains with respect to corporate procurement activities.

Definitions

In this policy:

- a) "CAO" means the Chief Administrative Officer of the Town or Designate.
- b) "Clerk" means the Clerk of the Town or Designate.
- c) "Contract" includes the purchase of goods and services by or on behalf of the Town and execution of purchase orders, written agreements and formal contracts as required.
- d) "Council" means the Municipal Council of the Town of The Blue Mountains.
- e) "Department Head" means the Head of a specific Department, or CAO of the Town of The Blue Mountains or Designate, who is responsible for a departmental budget for the Town.
- f) "Designate" means the person or persons assigned the duties and responsibilities on

behalf of and in the absence or incapacity of the person charged with the principal authority to take the relevant action or decision.

- g) "Evaluation Committee" means Town staff that has been selected to review the submissions received from respondents in response to a call for request for proposals.
- h) "Formal Contract or Formal Agreement" means a contract or agreement that is to be signed by the Clerk and the Mayor following a recommendation from Council to do so.
- i) "Goods" includes but is not limited to goods, supplies, wares, merchandise, materials, and equipment used or required by the Town.
- j) "Mayor" means the Mayor or Designate.
- k) "Manager of Purchasing" means the Manager of Purchasing or Designate under the authority of this Policy.
- l) "Purchase Order" means a written authorization for a vendor or supplier to ship products or provide a service at a specified price, which becomes a legally binding contract once the supplier accepts it.
- m) "Respondent" means a person who submits a Response to a Town's solicitation for goods or services, and "Bidder" or "Offerer" or "Tenderer" shall have the same meaning.
- n) "Responsible Bidder" means a bidder or offerer who is deemed to be fully technically and financially capable of supplying the goods or services requested in the solicitation.
- o) "Responsive Bidder" means a bidder or offerer who correctly and completely meets all requirements of the bid documents.
- p) "Services" may include, but are not limited to, telephone, gas, water, hydro, janitorial and cleaning services, consultant services, legal surveys, medical services, insurance, and the rental, repair or maintenance of equipment, machinery or other personal property.
- q) "Signing Authority" means the specific individual signing authorities approved by the Director of Financial Services based on the guidelines contained herein and apply to purchase order requisitions, cheque requisitions and petty cash, quotations, tenders, proposals, negotiations and standardizations.
- r) "Standardization" means a process which provides for the need of a single source for goods and/or services and has been clearly identified and approved.
- s) "Tender/Proposal Award Committee" means the committee comprised of the Chief Administrative Officer, Manager of Purchasing and the Respective Department Head of the Town.
- t) "Town" means the Town of The Blue Mountains.
- u) "Town's Solicitor" means a solicitor on staff or contract solicitor who has been retained to act on behalf of the Town.
- v) "Treasurer" means the Treasurer of the Town or Designate.

w) "Vendor" means a seller who exchanges goods or services for money.

Procedures

Total Expected Purchase Amount

Total Expected Purchase amount includes all expected costs associated with the purchase of the good or service with the exception of rebatable portion of the Harmonized Sales Tax (H.S.T.). Multi-year contract amounts shall be the total costs expected for the duration of the contract with the exception of rebatable H.S.T. Costs associated with the purchase will include but not be limited to the following:

- a) Freight
- b) The Non-rebatable portion of the H.S.T.
- c) Disbursements
- d) Set up charges

The total expected purchase amount will be consistent with the budgeted expenditure amount.

Example:

Costing for Tenders and other Expense forecasts

Goods or Service		\$ 100,000	A
HST	13.00%	\$ 13,000	E
TOTAL Invoice		\$ 113,000	A + B + D

Expense equals the cost of the goods/service plus any non rebatable Tax

Goods or Service		\$ 100,000	A
HST Non-Rebatable	1.76%	\$ 1,760	B
TOTAL Expense		\$ 101,760	C
HST Rebatable	11.24%	\$ 11,240	D

To calculate the TOTAL Expense

'A' times 1.76% plus 'A' equals 'C'

To calculate the Rebatable HST

'A' times 11.24% equals 'D'

Total HST charged on invoice

'A' times 13.0% equals 'E'

Authority to Execute Contracts

- a) Subject to statutory requirements and where all the requirements of this policy have been met, the Mayor and Clerk, with approval from Council, have the authority to bind the Town and are authorized to execute contracts and agreements plus any ancillary documents that have been prepared in a form satisfactory to the Town's Solicitor, except where otherwise accepted in the policy and the schedules thereto.
- b) Department Heads in conjunction with the Manager of Purchasing have the authority to execute contracts between \$5,001 and \$50,000, subject to approval guidelines contained herein.
- c) The Department Head in conjunction with one other individual from the Tender Proposal Award Committee, responsible for a respective award, have the authority to execute contracts between \$50,000 and \$100,000.
- d) Where the form of contract is a purchase order, the Manager of Purchasing or Department Head may sign the purchase order, subject to approval guidelines contained herein.
- e) Without limiting the generality of anything else contained in this policy, or the seriousness of any other contravention of this policy, it shall be a serious contravention of this policy for any employee to execute a contract or other document in connection with a solicitation of goods or services if the execution of such contract or other document exceeds their authority.

This Policy document includes Schedules A to I (inclusive) for purchasing procedures of goods and services:

Schedule A	Exceptions from Requirement of Purchasing Process
Schedule B	Tendering Purchasing Procedures
Schedule C	Formal Quotation Purchasing Procedures
Schedule D	Request for Proposals Purchasing Procedures
Schedule E	Procedure for Standardization of a Particular Product, Service or Support Activity
Schedule F	Negotiated Purchases Procedures
Schedule G	Emergency Purchasing Procedures
Schedule H	Open Market and Informal Bid Purchasing Procedures
Schedule I	Refusal of Bid Responses

Exclusions

The purchasing procedures contained in Schedules B through I do not apply to the items contained in Schedule A – Exceptions from Requirement of Purchasing Process.

References and Related Policies

1. Section 270 of the *Municipal Act, 2001, as amended*
2. The financial controls and guidelines of *PSAB*
3. *Accountability and Transparency Policy # POL.COR.07.01, as amended*
4. *Purchasing of Goods and Services Policy # POL.COR.07.05, as amended*
5. *Purchasing Card Policy FS.08.10, as amended*

Consequences of Non-Compliance

Non Compliance with the above References and Related Policies is subject to consequences of same.

Failure to adhere to the requirements outlined in this Policy may lead to progressive disciplinary action up to and including termination of employment.

Review Cycle

This policy will be reviewed **annually** by the CAO and Senior Management Team.

Paul Graham, CAO

DRAFT

SCHEDULE A
EXCEPTIONS FROM REQUIREMENT OF PURCHASING PROCESS

Purchasing processes are not required for the following items unless specifically requested by the Treasurer:

1. Perishable Consumables and small items under \$100
2. Training and Education
 - a) Conferences
 - b) Courses
 - c) Conventions
 - d) Magazines
 - e) Memberships
 - f) Periodicals
 - g) Seminars
 - h) Professional development
 - i) Staff workshops
 - j) Subscriptions
3. Refundable Employee Expenses
 - a) Advances
 - b) Meal allowances
 - c) Miscellaneous – non-travel
 - d) Travel expenses
 - e) Entertainment expenses
 - f) Reimbursed employee expenses
4. Employer's General Expenses
 - a) Payroll deductions
 - b) Medicals
 - c) Licenses
 - d) Debenture payments
 - e) Insurance premium payments
 - f) Grants to agencies
 - g) Damage claims
 - h) Petty cash replenishment
 - i) Tax remittances
 - j) Property tax refunds
 - k) Workplace Safety and Insurance Board (WSIB) remittance
 - l) Building permit refunds
 - m) Employer and Employee compensation
 - n) Charges to or from other government agencies
 - o) Bank charges

SCHEDULE A
EXCEPTIONS FROM REQUIREMENT OF PURCHASING PROCESS

5. Professional and Special Services

- a) Committee fees
- b) Counselling services
- c) Legal fees
- d) Appraisal charges
- e) Performance/artist's fees
- f) Honorarium
- g) Arbitrators
- h) Providers of artistic and recreational services, such as instructors, dance/yoga/gymnastic teachers, historical experts, and artistic designers.
- i) Witness fees
- j) Permit or application fees

6. Real Estate

- a) Purchase of Land and or Building
- b) Realty taxes
- c) Payments to real property

7. Utilities

- a) Postage
- b) Water and Sewage
- c) Hydro
- d) Gas
- e) Telephone (basic services)
- f) Cable Television Charges

Any other exceptions as approved by the Treasurer

SCHEDULE B TENDERING PROCEDURES

1. The call for Tenders for goods and services in excess of \$50,001, prepared on the corporate template, shall be advertised at least once in a local newspaper, and on an electronic tendering advertising system as available at least ten (10) calendar days preceding the closing date for tenders, unless otherwise directed by Council. The advertisement may, in addition, be placed in a major construction trade publication.

Note 1: Tenders exceeding \$100,000 must be advertised in an electronic tendering advertising system at least fifteen (15) calendar days preceding the closing date of tenders. Addendums must be posted no later than seven (7) calendar days prior to the tender closing date.

Note 2: Every Tender document must be reviewed and approved by the affected Department Head(s) prior to the release of the Tender.

Note 3: Tender calls will be created and managed by the Manager of Purchasing or Department Head in consultation with each other.

2. The advertisement shall contain all of the following:
 - a) The full name "Town of The Blue Mountains",
 - b) The tender number,
 - c) A general description of the tender,
 - d) The official designated to receive responses,
 - e) The time and date of closing, and any mandatory bidder's meetings or site visits,
 - f) The location of the performance of the contract,
 - g) The location where plans and specifications may be obtained,
 - h) The administrative fee, if any, for tender documents,
 - i) A statement that the lowest or any tender will not necessarily be accepted,
 - j) Fax number for vendor inquiries,
 - k) The Town's website address and the Ontario Public Buyers Association (O.P.B.A) website address.
3.
 - a) The Manager of Purchasing or Department Head in consultation with each other, shall prepare the tender documents. These documents shall provide clear instructions, specifications, terms and conditions of the contract.
 - b) Every Department shall provide technical input in the preparation of the tender documents.
 - c) The Town may charge an administrative fee to Bidders for issuance of tender documents.
4. The tender documents shall include all of the following:

SCHEDULE B
TENDERING PROCEDURES

- a) The Town approved tender envelope,
 - b) The Form of Tender,
 - c) Terms and conditions of the specific tender as well as the Town's standard terms and conditions document,
 - d) Special provisions where applicable,
 - e) Specifications,
5. Tender documents for construction contracts **may** require, in addition to the above:
- a) Drawings and plans,
 - b) Agreement documents,
 - c) Contract securities,
 - d) Evidence of good standing with the Workplace Safety and Insurance Board,
 - e) Liability insurance and certificates,
 - f) Occupational Health and Safety Policies
 - g) Vendor safety policies
6. A standardized tender submission label or Town approved technological equivalent shall be provided to all bidders and shall provide the following:
- a) Name and address of the Town of The Blue Mountains,
 - b) The official designated to receive the tenders,
 - c) The closing date and time,
 - d) The tender number, and
 - e) The name or general description of the tender.
7. a) A standardized tender form shall be provided to all Bidders and shall require the following:
- i) a statement by the Bidder that the Bidder reviewed and understands the tender documents and that the Bidder is capable of and willing to perform the requirements of the contract and enter into a legal agreement with the Town in regard thereto, and
 - ii) an execution by the Bidder – it shall be signed by the duly authorized officer or officers of the Bidder's organization, or in the case of partnership, by all signing partners.
 - iii) Irrevocable period of the tender response.
- b) The time limit for signing the contract shall be clearly stated.
8. The following term shall be included on every tender form:
- a) "Town of The Blue Mountains reserves the right, in its sole discretion, to reject

SCHEDULE B TENDERING PROCEDURES

- any or all bids, and the lowest or highest bid, as the case may be, will not necessarily be accepted.
- b) Notwithstanding and without restricting the generality of the statement immediately above, Town of The Blue Mountains shall not be required to award or accept a tender, or recall the tenders at a later date:
 - i) When only one bid has been received as the result of a tender call;
 - ii) Where the lowest responsive and responsible bidder substantially exceeds the estimated cost of the goods or service;
 - iii) When all bids received fail to comply with the specifications of tender terms and conditions;
 - iv) Where a change in the scope of work or specifications is required.
9. Bidder inquiries should be received in writing from the Bidder to the user Department Head or as specified. These questions and their respective answers will be written and issued to all potential bidders prior to closing. Any questions and answers occurring during Bidders' meetings, site visits or information sessions will be treated in the same fashion, and only confirmed by addendum.
10. The Manager of Purchasing or Department Head shall provide the tender documents or Town approved technological equivalent upon every bidders request accompanied by payment of any required fee thereto, with the exception of Vendors that have been placed on the Refusal of Bids list. The Manager of Purchasing or the Department Head is responsible to ensure this list is consulted prior to distribution of bids to vendors (see Schedule I). A bidders list shall be maintained by the Manager of Purchasing or Department Head.
11. Tenders shall comply with the following minimum conditions. A Bidder's failure to comply with any of these conditions shall result in disqualification of the tender.
- a) The tender form or format supplied by the Town shall be used.
 - b) A tender must be received by the official designated to receive tenders at the appropriate location on or before the closing date and time.
 - c) All tenders must be legible and written in ink or typewritten.
 - d) Tenders and Adjustments to tenders submitted by telephone, facsimile transmission or e-mail, shall not be considered. A Bidder wishing to make adjustments to a submitted tender must supersede it with a subsequent tender or letter enclosed in a tender envelope or Town approved equivalent received on or before the closing date and time.

SCHEDULE B
TENDERING PROCEDURES

- e) All tender forms must be duly executed as required.
 - f) All required documents, such as agreements to bond, bid bonds, security letters, or tender deposits, shall be enclosed in the same tender envelope as the tender.
 - g) Standard tender envelopes as supplied by the Town shall be sealed or secured.
 - h) The tender deposit shall be in the form specified in the tender documents. Where a deposit cheque is required, it must be in the form of a certified cheque, or a bank/trust company draft, or bid bond.
 - i) All mandatory requirements stipulated in the Town's Request for Tender document must be met.
12. The CAO, Manager of Purchasing and Department Head(s) collectively may reject a tender if:
- a) All items have not been bid, where stipulated, with the unit price for every item clearly shown;
 - b) Alternate tenders have been submitted where not requested in the tender documents;
 - c) The tender has been qualified by additions or alterations to the tender form, where not requested in the tender documents;
 - d) The standard tender envelope supplied by the Town has not been used;
 - e) Erasures, strikeouts, or over-writing have not been initialled by the signing party;
 - f) Insufficient bid/contract security has been submitted.

TENDER DEPOSITS

13. Where tender deposits are required, the Manager of Purchasing or Department Head shall determine the form of deposit.
- a) Where a tender deposit is required in connection with a contract for road work or the construction of bridges, sidewalks or other pedestrian facilities, the amount of tender deposit shall be in accordance with the Town's standard tender deposit formula for calculating deposits or past accepted practice.

**SCHEDULE B
TENDERING PROCEDURES**

- b) Where a tender deposit is required in connection with a contract for the construction or demolition of a building, the amount of the deposit shall be in accordance with past accepted practice.
- c) In cases where the amount of the contract is not likely to represent the importance or extent of the contract, the Manager of Purchasing or Department Head may increase or decrease the amount of tender deposit otherwise required or not request a deposit.
- d) The Manager of Purchasing shall retain, in safe-keeping, the deposits of the two lowest tenders until an award has been determined, accepted, and a contract executed. All other tender deposits will be returned forthwith.
- e) Should a tender not be awarded, the Manager of Purchasing shall forthwith arrange the return of tender deposits to the Bidders.
- f) The tender deposit may be used to mitigate costs or damages to the Town where a successful bidder fails to execute the contract, or furnish any required documents within ten (10) calendar days or as specified within the tender documents after notice to them to do so, or where a bidder withdraws their tender after tenders have been opened.

ADDENDA, EXTENSION OF TIME AND CANCELLATION

- 14. Where it is deemed necessary by the Town to revise the tender documents an addendum shall be forwarded to every person who obtained tender documents for the contract. The addendum shall be attached to all tender forms not yet distributed. Where an addendum is prepared within 4 days of the closing date, every person who obtained tender documents for the contract shall be notified of the addendum by telephone or Town approved technological equivalent and receive the addendum by facsimile.
- 15. Where a closing date has been extended, all Bidders shall be advised that any tenders submitted prior to the giving of the extension will be returned upon request.
- 16. Where it is deemed necessary by the Town to cancel a tender call, an advertisement will be placed in the electronic medium or publication in which the original advertisement appeared stating that the tender call has been cancelled and every person who obtained tender documents shall be notified by telephone, facsimile or Town approved technological equivalent of the cancellation. The administrative fee charged for the tender documents shall be returned to the bidders who paid to receive the documents.
- 17. Where a tender call is cancelled prior to closing, no tenders shall be accepted. All tenders received shall be returned unopened by registered mail or courier with a covering letter.

SCHEDULE B
TENDERING PROCEDURES

18. RECEIVING TENDERS

The Clerk's Department shall provide a locked secure container for the safekeeping of tenders.

- a) Every tender envelope received shall be noted with the date and time received and initialed by the Clerk's Department Staff and forthwith deposited unopened in the secured tender container by the Clerk's Department.
- b) Tenders received after the closing time shall be returned unopened to the Bidder by the Clerk's Department Staff together with a covering letter. Where no return address is indicated on a late tender envelope, the envelope shall be opened by the Clerk's Department Staff only, the address obtained and the tender returned together with a covering letter setting out why the envelope was opened.
- c) The Clerk's Department shall maintain a list of all bids received. This list shall be used for recording the tender prices at the tender opening.
- d) Should a technological process, as approved by the Town, be available, which would satisfy procedures 18 (a) through (c) above, it may be implemented.

19. WITHDRAWAL OF TENDERS

- a) A Bidder may withdraw their tender prior to the closing time. Withdrawal requests shall be directed to the Clerk's Department by letter, facsimile, or in person. A withdrawal request made by telephone or email shall not be considered. All withdrawal requests made in person shall require a written withdrawal request.
- b) Tender withdrawal requests on behalf of a vendor must be submitted by an officer of the vendor's organization.
- c) Tenders withdrawn prior to closing shall be returned unopened to the Bidder.
- d) The withdrawal of a tender does not disqualify a Bidder from submitting another tender on the same tender call prior to the closing time.
- e) Withdrawal requests received after the closing time shall not be considered.

20. TENDER OPENING

- a) Tenders shall be opened at a public meeting at a time and location specified in the tender documents.

SCHEDULE B TENDERING PROCEDURES

- b) These persons shall constitute the Tender Opening Committee and shall be present at every tender opening:
 - i) The Manager of Purchasing,
 - ii) The Department Head of the user department,
 - iii) The CAO.
- c) The list of Bidders prepared by the Manager of Purchasing or Department Head shall be available to all attending the opening.
- d) The Manager of Purchasing shall ensure that all tenders have been accounted for prior to reading out the tenders. Tender envelopes which do not indicate the contract number or the Bidder's name shall be opened and placed with other tenders for that contract.
- e) The Manager of Purchasing shall ensure that the Refusal of Bids List is referenced at the opening to ensure bids from bidders who are on the list are not opened.
- f) The Manager of Purchasing shall announce for each contract the contract number, the contract description, the name of the Bidder, the total amount of the tender, and shall prepare a list thereof.
- g) Where two or more tenders are submitted in the same tender envelope, the one bearing the lower price shall be considered as the tender.
- h) Where two or more tenders are submitted by the same Bidder, and no withdrawal request has been received, and where both tenders are identical, only the tender received at the latest time shall be considered.
- i) Should a technological process, as approved by the Town, be available which satisfies procedures (a) through (g) above, it may be implemented.
- j) Immediately following the opening of tenders, every tender shall be checked to ensure compliance with the requirements of this schedule. Notification of the results of the Public Opening shall be placed on the Town's website.

AWARD OF CONTRACT

- 21. A report respecting: the tender process, amounts of tenders received and award of the contract will be required. The report shall remain confidential until it is distributed to a Committee of Council or Council or the Tender/Proposal Award Committee as appropriate. It is the Town's normal business practise to advise the low and second low bidder of Staff's recommendation of award of the Tender, prior to distribution of the report.

SCHEDULE B
TENDERING PROCEDURES

22. In considering a contract award, the Tender/Proposal Award Committee shall recommend that the award of the contract be made to the lowest responsive and responsible Bidder, meeting all the requirements of the Tender and the Contract Documents. In determining “responsive and responsible Bidder”, the Tender/Proposal Award Committee shall consider the following, assuming the bid contains no major irregularities:
- a) The Bidder’s ability, capacity and skill to perform the contract.
 - b) Whether the Bidder can perform the contract promptly or within the time specified without delay or interference;
 - c) The quality of performance of previous contracts or services;
 - d) The sufficiency of the financial resources and ability of the Bidder to perform the contract;
 - e) The quality, availability and adaptability of the supplies or services to the particular use required;
 - g) The number and scope of conditions attached to the tender;
 - h) Any other evaluation criteria as indicated in the Request for Tenders document.
23. The Manager of Purchasing and Department Head shall note in the written analysis every improper tender, and shall state the reason the tender is considered improper.
24. If two or more low tenders are submitted in the same amount, the Manager of Purchasing and Department Head shall include in the written analysis the method by which the award of the contract is recommended.
25. The Manager of Purchasing or Department Head, following the approval of Council or the Tender/Proposal Award Committee as required of the award of the contract, shall notify the successful Bidder in writing.
26. Where a standard contract is required, and approved by the Department Head and the Manager of Purchasing, it shall be submitted to the successful Bidder for execution. Where non-standard contracts are being used, approval by the Department Head and the Town’s solicitor shall be submitted to the successful Bidder for execution.
27. Where a contract has been awarded and the successful Bidder fails to execute the contract or any other required documents within the specified time, the Manager of Purchasing and/or Department Head may:

**SCHEDULE B
TENDERING PROCEDURES**

- a) Grant the successful Bidder additional time to fulfill the requirements; or,
 - b) Award the contract to the second lowest Bidder.
28. As soon as the executed contract and any other required documents are returned to and found acceptable by the Department Head and/or Manager of Purchasing, the tender deposits of the successful Bidder and the second low Bidder shall be returned to them. Performance bonds from the successful Bidder shall be retained.
29. APPROVALS
- a) The Tender/Proposal Award Committee will award contracts from \$50,001-\$100,000, in a report of recommendation to the project file, based on an award to the low "responsive and responsible" bidder within approved budget allocations. The Department Head in conjunction with one other member of the Tender Proposal Award Committee will have signing authority on contracts that arise from this award level. An information report will be provided to Council at the next available Council meeting outlining awards made by the Tender Award Committee. The Manager of Purchasing shall prepare the report as a representative of the Tender/Proposal Award Committee.
 - b) All tenders exceeding \$100,000 shall be awarded by Council based on the recommendation of the Tender/Proposal Award Committee. The Manager of Purchasing shall prepare the report as a representative of the Tender/Proposal Award Committee. The Mayor and the Clerk will have signing authority on contracts that arise from this award level upon approval by Council.

SCHEDULE C
FORMAL QUOTATION ACTIVITY

1. a) The call for Formal Quotations, prepared on the corporate template, are to be obtained by the Manager of Purchasing or Department Heads for goods and services between \$15,001 and \$50,000. The Town's standard submission label must be included in the quotation package. Quotation submissions are directed to be returned to the Clerk's office for time stamping.

The Manager of Purchasing or Department Head shall provide the quotation documents or Town approved technological equivalent upon every bidders request accompanied by payment of any required fee thereto, with the exception of Vendors that have been placed on the Refusal of Bids list. The Manager of Purchasing or the Department Head is responsible to ensure this list is consulted prior to distribution of bids to vendors (see Schedule I). A bidders list shall be maintained by the Manager of Purchasing or Department Head.

- b) Formal Quotations must be advertised locally, by the Manager of Purchasing or Department Head, in at least one newspaper and on the Town's website.
- c) Quotation submissions are to be opened by the Manager of Purchasing at a meeting with the two other Town Staff to witness opening.
- d) The Manager of Purchasing shall ensure that the Refusal of Bids List is referenced at the opening to ensure bids from bidders who are on the list are not opened.
- d) The Manager of Purchasing or Department Heads are required to acquire quotes using fair and ethical purchasing practices as established by the Town. Staff are to involve best efforts in acquiring three quotation responses. It should be noted that in some cases, it may not be possible to achieve these bid responses for some goods, supplies or services.
- e) In soliciting prices, the Manager of Purchasing or Department Heads shall indicate the specifications, terms and conditions equally to all bidders, all of which are to form the basis of the awarded contract.
2. a) Where a contract is awarded, it shall be to the lowest "responsive and responsible" bidder, who meets all requirements of the bid documents.
- b) In determining the "responsive and responsible" bidder, the Manager of Purchasing or Department Heads shall consider the factors set out in Section 22 of Schedule B hereto.
- c) Notification of the results of the opening shall be placed on the Town's website.
3. The Manager of Purchasing or Department Head is to issue a purchase order requisition to acquire goods and services.

**SCHEDULE C
FORMAL QUOTATION ACTIVITY**

4. The following outlines the approval process:

	Purchase Amount	Approval
Tier 1	\$15,001 to \$25,000	Department Heads and Manager of Purchasing
Tier 2	\$25,001 to \$50,000	Department Heads and Manager of Purchasing

****Authority to Execute Contracts for Quotations shall be in accordance with Clause 19.**

SCHEDULE D
PROCEDURE FOR REQUESTS FOR PROPOSALS

1. The call for proposals shall be prepared on a corporate template. Proposals over \$50,001 shall be advertised at least once in an electronic tendering advertising system as available at least ten (10) calendar days preceding the closing date for proposals, unless otherwise directed by Council. Proposals \$5,001 to \$25,000 may be distributed to a minimum of 3 potential respondents. Proposals \$25,001 and over may be advertised as appropriate. Proposal advertisement may, in addition, be placed in a local newspaper, trade publications or a major newspaper that relates to the proposal content.

Note 1: Proposal calls will be created and managed by the Manager of Purchasing or Department Head in consultation with each other.

Note 2: Proposals exceeding one hundred thousand dollars (\$100,000) must be advertised in an electronic tendering advertising system at minimum and, least (15) calendar days preceding the closing date of Proposals.

- a) Every proposal document must be reviewed by the affected Department Head prior to release.
 - b) Requests for Proposals will clearly establish required project outcome or requirements and contain existing conditions as applicable.
 - c) Requests for Proposals will clearly outline vendor response requirements at time of proposal receipt.
 - d) Specific contract documents may be required such as architectural, engineering or construction related documents.
 - e) A two envelope system is to be used to isolate proposal cost from material content
2. The advertisement shall contain the following:
 - a) The Town's name "Town of The Blue Mountains",
 - b) The Proposal number,
 - c) A general description of the Proposal complete with securities required,
 - d) The official designated to receive Proposal responses,
 - e) The time and date of closing, and any mandatory bidder's meetings or site visits,
 - f) The location of the performance of the contract,
 - g) The location where the Proposal bid document may be obtained,
 - h) The administrative fee, if any, for proposal documents,
 - i) A statement that the lowest or any proposal will not necessarily be accepted,
 - j) Fax number for vendor inquiries,
 - k) Ontario Public Buyers Association (O.P.B.A) website address.
 3.
 - a) The Manager of Purchasing or Department Head, in consultation with each other shall prepare the proposal documents. These documents shall provide clear instructions and requirements, general specifications as appropriate, any terms and conditions of the contract specific to the Town of The Blue Mountains.
 - b) Every Department shall provide technical input in the preparation of the

SCHEDULE D
PROCEDURE FOR REQUESTS FOR PROPOSALS

- proposal documents.
- c) The Town may charge an administrative fee to Bidders for issuance of proposal documents.
4. a) The proposal documents shall include the following:
- (i) The proposal envelope,
 - (ii) The proposal form,
 - (iii) Terms and conditions of the specific proposal as well as the Town's standard terms and conditions document,
 - (iv) Special provisions where applicable,
 - (v) Specifications as appropriate,
 - (vi) Evaluation criteria complete with criteria score values.
- b) Proposal documents for construction related projects may, in addition to the above also include:
- (i) Reference drawings and plans,
 - (ii) Agreement documents,
 - (iii) Contract securities,
 - (iv) Evidence of good standing with the Workplace Safety and Insurance Board,
 - (v) Liability insurance and certificates,
 - (vi) Occupational Health and Safety Policies,
 - (vii) Vendor safety policies.
5. A standardized proposal submission label shall be provided to all bidders by the Town and shall provide the following:
- a) Name and address of the Town of The Blue Mountains,
 - b) The official designated to receive the proposals,
 - c) The closing date and time,
 - d) The proposal number, and
 - e) The name or general description of the proposal.
6. a) A standardized proposal form shall be provided to all Bidders and shall require the following:
- (i) a statement by the Bidder that the Bidder reviewed and understand the proposal documents and that the Bidder is capable of and willing to perform the requirements of the contract and enter into a legal agreement with the Town in regard thereto, and
 - (ii) an execution by the Bidder - it shall be signed by the duly authorized officer or officers of the Bidders organization, or in the case of partnership, by all signing partners.
 - (iii) Irrevocable period of the proposal response.
- b) The time limit for signing the contract shall be clearly stated.
7. The following term shall be included on every proposal form:

SCHEDULE D
PROCEDURE FOR REQUESTS FOR PROPOSALS

- a) "Town of The Blue Mountains reserves the right, in its sole discretion, to reject any or all bids, and the lowest or highest bid, as the case may be, will not necessarily be accepted."
 - b) Notwithstanding and without restricting the generality of the statement immediately above, the Town of The Blue Mountains shall not be required to award or accept a proposal, or recall the proposals at a later date:
 - (i) When only one proposal response has been received as the result of a proposal call;
 - (ii) Where the recommended responsive and responsible bidder substantially exceeds the towns budgeted cost component of the goods or service;
 - (iii) When all proposal responses received fail to comply with reference specifications or the proposal's intended result;
 - (iv) Where a change in the scope of work or specifications is required.
8. Bidder inquiries should be received in writing from the Bidder to the Department Head or as specified. These questions and their respective answers will be written and issued to all potential bidders prior to closing. Any questions and answers occurring during Bidders' meetings, site visits or information sessions will be communicated to all bidders present.
9. The Manager of Purchasing or Department Head shall provide the proposal documents or Town approved technological equivalent upon every bidders request accompanied by payment of any required fee thereto, with the exception of Vendors that have been placed on the Refusal of Bids list. The Manager of Purchasing or the Department Head is responsible to ensure this list is consulted prior to distribution of bids to vendors (see Schedule I). A bidders list shall be maintained by the Manager of Purchasing or Department Head.
10. Proposals shall comply with the following minimum conditions. A Bidder's failure to comply with any of these conditions shall result in disqualification of the proposal.
- a) The proposal form or format supplied by the Town shall be used.
 - b) A proposal must be received by the official designated to receive proposals at the appropriate location on or before the closing date and time.
 - c) All proposals must be legible and written in ink or typewritten.
 - d) Proposals and adjustments to proposals submitted by telephone, facsimile transmission or e-mail, shall not be considered. A Bidder wishing to make adjustments to a submitted proposal must supersede it with a subsequent proposal or letter enclosed in a proposal envelope or equivalent received on or before the closing date and time.
 - e) All proposal forms must be duly executed as required.
 - f) All required documents, such as agreements to bond, bid bonds, security

SCHEDULE D
PROCEDURE FOR REQUESTS FOR PROPOSALS

letters, or proposal deposits, shall be enclosed in the same proposal envelope as the proposal.

- g) Proposal envelopes shall be sealed or secured.
- h) The proposal deposit shall be in the form specified in the proposal documents. Where a deposit cheque is required, it must be certified cheque, or a bank/trust company draft or a bid bond.
- i) All mandatory requirements stipulated in the Towns Request for Proposal document must be met.

11. The CAO, Manager of Purchasing and Department Head **may** reject a Proposal immediately if:

- a) The proposal envelope supplied by the Town has not been used;
- b) Insufficient bid/contract security has been submitted.

PROPOSAL DEPOSITS

12. Where proposal deposits are required, the Manager of Purchasing or Department head shall determine the form of deposit.

- a) In cases where the amount of the deposit is not likely to represent the importance or extent of the contract, the Manager of Purchasing or Department Head may increase or decrease the amount of proposal deposit otherwise required or not request a deposit.
- b) The Manager of Purchasing shall retain, in safe-keeping, the deposits of the proponents until an award has been determined, accepted, and a contract executed.
- c) Should a proposal not be awarded, the Manager of Purchasing shall forthwith arrange the return of proposal deposits to the Bidders.
- d) The proposal deposit may be used to mitigate costs or damages to the Town where a successful bidder fails to execute the contract, or furnish any required documents within ten (10) calendar days or as specified within the proposal documents after notice to them to do so, or where a bidder withdraws there proposal after proposals have been opened.

ADDENDA, EXTENSION OF TIME AND CANCELLATION

13. Where it is deemed necessary by the Town to revise the proposal documents an addendum shall be forwarded to every person who obtained proposal documents for the contract. The addendum shall be attached to all proposal forms not yet distributed. Where an addendum is prepared within 4 days of the closing date, every person who obtained tender documents for the contract shall be notified of the addendum by telephone or Town approved technological equivalent and receive the addendum by facsimile.

14. Where a closing date has been extended, all Bidders shall be advised that any

SCHEDULE D
PROCEDURE FOR REQUESTS FOR PROPOSALS

tenders submitted prior to the giving of the extension will be returned upon request.

15. Where it is deemed necessary by the Town to cancel a proposal call, an advertisement will be placed in the electronic medium or publication in which the original advertisement appeared stating that the proposal call has been cancelled and every person who obtained proposal documents shall be notified by telephone, facsimile or technological equivalent of the cancellation.
16. Where a proposal call is cancelled prior to closing, no proposals shall be accepted. All proposals received shall be returned unopened by registered mail or courier with a covering letter.

RECEIVING PROPOSALS

17. a) The Clerk shall provide a locked secure container for the safekeeping of proposals.
- b) Every proposal envelope received shall be noted with the date and time received and initialled by the Clerk and forthwith deposited unopened in the secured proposal container by the Clerk.
- c) Proposals received after the closing time shall be returned unopened to the Bidder by the Manager of Purchasing or the Department Head together with a covering letter. Where no return address is indicated on a late proposal envelope, the envelope shall be opened by the Clerk's Department Staff only, the address obtained and the proposal returned together with a covering letter setting out why the envelope was opened.
- d) The Clerk shall maintain a list of all Bidders. This list shall be used for recording acknowledgement only of proposals received at the opening.
- e) Should a technological process be available, which would satisfy procedures (a) through (d) above, and approved by the town it may be implemented.

WITHDRAWAL OF PROPOSALS

18. a) Bidder may withdraw their proposal prior to the closing time. Withdrawal requests shall be directed to the Clerk by letter, facsimile, or in person. A withdrawal request made by telephone shall not be considered. All withdrawal requests made in person shall require a written withdrawal request.
- b) Proposal withdrawal requests on behalf of a vendor must be submitted by an officer of the vendor's organization.
- c) Proposals withdrawn prior to closing shall be returned unopened to the Bidder.
- d) The withdrawal of a proposal does not disqualify a Bidder from submitting another proposal on the same proposal call prior to the closing time.
- e) Withdrawal requests received after the closing time shall not be considered.

PROPOSAL OPENING

19. a) Proposals shall be opened at a public meeting at a time and location specified

SCHEDULE D
PROCEDURE FOR REQUESTS FOR PROPOSALS

- in the proposal documents.
- b) The following persons shall constitute the Proposal Opening Committee and shall be present at every proposal opening:
 - i) the Manager of Purchasing,
 - ii) the Department Head of the user department,
 - iii) the CAO or a representative,
 - c) The list of bids received prepared by the Manager of Purchasing or Department Head shall be available to all attending the opening
 - d) The Manager of Purchasing or Department Head shall ensure that all proposals have been accounted for prior to reading out the proposals. Proposal envelopes which do not indicate the contract number or the bidders name shall be opened and placed with other proposals for that contract.
 - e) The Manager of Purchasing shall ensure that the Refusal of Bids List is referenced at the opening to ensure bids from bidders who are on the list are not opened.
 - f) The Manager of Purchasing shall announce for each contract the contract number, the contract description, the name of the Bidder, open acknowledge receipt of the proposal, and shall prepare a list thereof. Prices for Proposals will not be disclosed. Any decision as to acceptance or rejection of proposals due to irregularities will not be made until a review has been conducted, and bidders will be instructed not to conclude any particular award results from the Opening itself.
 - g) Where two or more proposals are submitted by the same Bidder, and no withdrawal request has been received, only the proposal received at the latest time shall be considered.
 - h) Should a technological process be available which satisfies procedures (a) through (g) above and approved by the Town, it may be implemented.
 - i) Following the opening of proposals, every proposal as part of its review shall be checked to ensure compliance with the requirements of this schedule.
 - j) Notification of the results of the Public Opening shall be placed on the Town's website.

AWARD OF PROPOSAL

- 20. In considering a contract award, an Evaluation Committee will be identified by the Department Head and will be responsible for weighing vendor responses using established scores identified in the proposal call. The scoring process and activities will be fully documented by the Manager of Purchasing and/or Department Head using a grid or spreadsheet. Each member of the evaluation committee will sign off on the evaluation grids or spreadsheets.
- 21. A report respecting the award of the proposal will be provided by the Manager of Purchasing or Department Head in consultation with each other. The report shall remain confidential until it is distributed to Committee of Council, Council or the Tender/Proposal Award Committee as appropriate. It is the Town's normal business practise to advise the bidding participants of the Proposal process of

**SCHEDULE D
PROCEDURE FOR REQUESTS FOR PROPOSALS**

Staff's recommendation of award of the Proposal prior to the release of the report.

The following may be considered as criteria for award:

- a) The sufficiency of the financial resources and ability of the Bidder to perform the contract;
 - b) The quality, availability and adaptability of the supplies or services to the particular end use required;
 - c) Ability to meet the number and scope of conditions attached to the proposal;
 - d) Any other evaluation criteria as indicated in the Request for Proposal document.
22. The Manager of Purchasing or Department Head, following the approval of Council or the Tender/Proposal Award Committee as required for award of the contract, shall notify the successful Bidder.
23. Where a formal contract is required, and approved by the CAO and/or Town's solicitor it shall be submitted to the successful Bidder for execution.
24. As soon as the executed contract and any other required documents are returned to and found acceptable by the Manager of Purchasing and/or Department Head, the proposal deposits of all bidders shall be returned to them. Performance bonds from the successful Bidder shall be retained.
25. Where a contract has been awarded and the successful Bidder fails to execute the contract or any other required documents within the specified time, the Manager of Purchasing and/or Department Head may:
- a) grant the successful Bidder additional time to fulfill the requirements; or,
 - b) award the contract to the next highest scoring bidder, subject to the bidders ability to meet proposal requirements;
 - c) cancel the award and consider remedies available to the Town resulting from the successful bidder's inability to fulfill their responsibilities.
26. The following outlines the approval process:

	Purchase Amount	Approval
Tier 1 Minimum 3 invited potential Respondents	\$5,001 to \$25,000	Department Heads and Manager of Purchasing

**SCHEDULE D
PROCEDURE FOR REQUESTS FOR PROPOSALS**

Tier 2 Available to all potential Respondents	\$25,001 to \$100,000	\$25,001 to \$50,000 – Department Head and Manager of Purchasing \$50,001 to \$100,000 Tender/Proposal Award Committee ***Information Report to Council for the next Council meeting
Tier 3 Available to all potential Respondents	More than \$100,000	Council based on recommendation of the Tender/Proposal Award Committee

Tier 2

\$25,001-\$50,000 - Department Head and the Manger of Purchasing have the authority to award proposals within approved budget allocations and sign contracts that arise from this award level.

\$50,001 to \$100,000 – The Tender/Proposal Award Committee have the authority to award proposals based on an award recommendation of the Proposal Evaluation Committee within approved budget allocations. The Department Head and one other member of the Tender Proposal Award Committee will have signing authority on contracts that arise from this award level. An information report will be provided to Council at the next available Council meeting outlining awards made by the Tender/Proposal Award Committee.

Tier 3

All Proposals exceeding \$100,000 shall be awarded by Council based on the recommendations of the Tender/Proposal Award Committee. Council will authorize the Mayor and Clerk to execute contracts that arise from this award level.

**SCHEDULE E
STANDARDIZATION PROCUREMENT PROCEDURES
OF A PARTICULAR PRODUCT, SERVICE OR SUPPORT ACTIVITY**

1. A staff report and approval noted in clause 2 below will be required to support the need to follow a “standardization” method of “single” sourcing a particular product, service or support activity, whereby a particular source of supply may be identified based on technical specifications or significant previous knowledge and experience about the project or assignment.

This process will allow for a reduction in the number of goods and services required, maximized volume buying opportunities via economies of scale, reduced handling, training and storage costs, and increased co-operative purchasing opportunities. Services may be grouped and standardized in order to provide an ease of implementation of day to day operations and management. This will result in a reduction in an overall cost of the services in operating costs.

2. The Town shall not enter into a contract for standardization with any bidder or vendor who has been placed on the “Refusal of Bids” list. (see Schedule I)
3. The Purchase Amount shall be the total expected purchase price associated with the length of time recommended for the purchase.
4. The following outlines the approval process:

	Purchase Amount	Approval
Tier 1	\$5,001 to \$25,000	Department Heads and Manager of Purchasing
Tier 2	\$25,001 to \$100,000	\$25,001 to \$50,000 – Department Head and Manager of Purchasing \$50,001 to \$100,000 Tender/Proposal Award Committee ***Information Report to Council for the next Council meeting
Tier 3	More than \$100,000	Council based on recommendation of the Tender/Proposal Award Committee

Tier 2

\$25,001-\$50,000 - Department Head and the Manger of Purchasing have the authority to award proposals within approved budget allocations and sign contracts that arise from this award level.

\$50,001 to \$100,000 – The Tender/Proposal Award Committee have the authority to award proposals based on an award recommendation of the Proposal Evaluation Committee within approved budget allocations. The Department Head

SCHEDULE E
STANDARDIZATION PROCUREMENT PROCEDURES
OF A PARTICULAR PRODUCT, SERVICE OR SUPPORT ACTIVITY

and one other member of the Tender Proposal Award Committee will have signing authority on contracts that arise from this award level. An information report will be provided to Council at the next available Council meeting outlining awards made by the Tender/Proposal Award Committee.

Tier 3

All Proposals exceeding \$100,000 shall be awarded by Council based on the recommendations of the Tender/Proposal Award Committee. Council will authorize the Mayor and Clerk to execute contracts that arise from this award level.

SCHEDULE F
NEGOTIATED PROCUREMENT PROCEDURES

1. The Manager of Purchasing or Department Heads may apply negotiation procedures with prior written approval: (see the process noted in number 2 below)
 - a) When there is only one source of supply for the goods or services; or when only one source of supply is uniquely qualified to perform the work;
 - b) When due to market conditions, required goods or services are in short supply, or when urgent acquisition of required goods or services is necessary due to unexpected circumstances;
 - c) When there is merit in purchasing at a public auction;
 - d) When there is a strong business case to extend a contract beyond its initial term, such as when additional work is required that pertains to a current or recently completed project;
 - e) When the project is a pilot project with the understanding that, if the project is successful, any further requirements or work will be subject to an applicable bid process;
 - f) When required goods/equipment must be compatible with goods/equipment presently being used;
 - g) During negotiation of annual renewals within an existing contract period;
 - h) When the nature of the assignment is confidential and disclosure to several bidders is inappropriate;
 - i) When all tenders or bids received fail to meet specifications or terms and conditions, and it is impractical to recall tenders or formal quotations.
 - j) When significant previous knowledge and experience about a particular project or assignment exists.
 - k) When local technical support is critical.

2. The Town shall not negotiate or enter into a contract with any bidder or vendor who has been placed on the "Refusal of Bids" list. (See Schedule I)

3. The Purchase Amount shall be the total expected purchase price associated with the length of time recommended for the purchase.

4. The following outlines the approval process:

	Purchase Amount	Approval
Tier 1	\$5,001 to \$25,000	Department Heads and Manager of Purchasing
Tier 2	\$25,001 to \$100,000	\$25,001 to \$50,000 – Department Head and Manager of Purchasing \$50,001 to \$100,000 Tender/Proposal Award Committee ***Information Report to Council for the next Council meeting

**SCHEDULE F
NEGOTIATED PROCUREMENT PROCEDURES**

Tier 3	More than \$100,000	Council based on recommendation of the Tender/Proposal Award Committee
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Tier 2

\$25,001-\$50,000 - Department Head and the Manger of Purchasing have the authority to award proposals within approved budget allocations and sign contracts that arise from this award level.

\$50,001 to \$100,000 – The Tender/Proposal Award Committee have the authority to award proposals based on an award recommendation of the Proposal Evaluation Committee within approved budget allocations. The Department Head and one other member of the Tender Proposal Award Committee will have signing authority on contracts that arise from this award level. An information report will be provided to Council at the next available Council meeting outlining awards made by the Tender/Proposal Award Committee.

Tier 3

All Proposals exceeding \$100,000 shall be awarded by Council based on the recommendations of the Tender/Proposal Award Committee. Council will authorize the Mayor and Clerk to execute contracts that arise from this award level.

SCHEDULE G
EMERGENCY PURCHASING PROCEDURES

1. When an event occurs that is determined by the Department Head to be a threat to public health, the maintenance of essential Town services, the welfare of persons or of public property, the protection of the Town's physical assets, or the security of the Town's interests or financial liabilities arising from unexpected conditions, and the occurrence requires the immediate delivery of goods or services and time does not permit the Department Head to follow normal Purchasing activities to acquire such goods and services, the Manager of Purchasing or Department Head may make such purchases without the bidding or tendering process, and is authorized to do so in the most expedient and economical means possible.
2. The Town shall not contract with any vendor for emergency service that has been placed on the "Refusal of Bids" list. (See Schedule I)
3. The Department Head shall provide written notice for the emergency event in accordance with the Tier 1 and Tier 2 spending limits as outlined below. The written notice shall contain the particulars of the emergency situation, including costs.

Tier 1 \$5,001 to \$25,000 (Aggregate cost)

The Department Head shall provide written notice within 2 days of emergency incident to the CAO with a copy to the Manager of Purchasing and the Treasurer.

Tier 2 More than \$25,000 (Aggregate cost)

The Department Head shall provide written report to the next possible Council meeting with a copy to the CAO, Treasurer and the Manager of Purchasing.

SCHEDULE H
OPEN MARKET AND INFORMAL QUOTATION PROCEDURES

1. a) Goods and services may be obtained by the Manager of Purchasing or Department Heads on values between **\$0 and \$5,000** using an open market process not requiring any formalized bidding. The open market process allows the searching of price comparisons through the use of vendor catalogues or known price advantages.
- b) Goods and services may be obtained by the Manager of Purchasing or Department Head on values between **\$5,001 and \$15,000**. Such purchases will require Informal Bidding activity from three (3) sources supported with fax or mail responses. Bid responses received are to be provided with the payment card slip, purchase order or other form of contract used as approved prior to the expense.
- c) In all cases the Manager of Purchasing or Department Heads are required to acquire goods and services using fair and ethical purchasing practices as established by the Town.
- e) In soliciting prices, for either the open market process or informal bidding the Department Head shall indicate the specifications and terms equally to all suppliers contacted.
- f) **The Town shall not solicit for informal quotations or open market purchases with any bidder or vendor who has been placed on the "Refusal of Bids" list. (see Schedule I).**
2. a) Purchases in the case of multiple bid responses will be awarded to the lowest "responsive and responsible" bidder.
- b) In determining the "responsive and responsible" bidder, the Manager of Purchasing and/or Department Heads shall consider the factors as set out in Section 21 of Schedule "B" hereto.
3. The Corporate Purchasing Card Program, should one be implemented, may be used by the Department Head to acquire goods and services as set out in the Corporate Purchasing Card Program Policy, should one be implemented, and meeting above requirements.
4. Should the Corporate Purchasing Card, should one be implemented, not be appropriate, Department Heads may use a purchase order or acquire written approval of the Manager of Purchasing regarding an alternate activity.
5. Town Staff who have been designated with an approved Spending Limit Authority by the Director of Financial Services shall be required to follow the above.

SCHEDULE I

REFUSAL OF BID RESPONSES PROCEDURES

The Town prides itself on building good working relationships with all Vendors by focusing on cooperation.

Town Policy POL.COR.07.05 “Purchasing of Goods and Services Policy”, Clause 17 – Refusal of Bid Responses states that the Town will not accept a bid response from a Vendor as a result of at least one of:

- Active litigation between the Town and the Vendor
- Pending litigation between the Town and the Vendor
- Non performance of a Town contract by the Vendor
- Breach of a Town contract by the Vendor

General Procedures for Litigation

Litigation

Upon receipt of a Notice of Intent to file a statement of claim, or the receipt of a statement of claim, the Town will refuse to issue a bid document, and will refuse to accept a bid submission from a Vendor.

Should the Town file a Notice of Intent to file a statement of claim, or issue a statement of claim, the Town will refuse to issue a bid document, and will refuse to accept a bid submission from a Vendor.

Pending Litigation

The Town will refuse to issue a bid document, and will refuse to accept a bid submission from a Vendor, where the Town has reason to believe that a high likelihood exists that a Vendor is threatening litigation against the Town.

The Town will not issue a bid document, nor will it accept a bid submission from a Vendor, in a situation where the Town is considering litigation against that Vendor.

A legal opinion must be obtained by Town Staff from the Town’s Solicitor as part of the due diligence in making the determination of pending litigation in either case as described above.

General Procedures for Breach of Contract and Non-Performance of a Contract

1. All agreements, tenders, proposals and quotations must contain wording which informs Vendors that non-fulfillment of the contract will preclude them from working for the Town for a period of time up to 5 years, and of the Town’s refusal to accept bids from Vendors who have been suspended from bidding.
2. It is important to note that any action to refuse to accept bids will only be done after all other means of dispute resolution have been exhausted such as negotiation, mediation and arbitration. The intent of Clause 17 is that it is only to be used as a last resort after a normal working relationship has deteriorated to the point of being non-functional.
3. If the Town’s position regarding breach of contract is proven incorrect during litigation, the refusal to accept bids due to breach of contract will be revoked,

SCHEDULE I
REFUSAL OF BID RESPONSES PROCEDURES

however, the Town may still refuse to accept bids for non-performance of contract if appropriate.

4. The Department Head must inform a Vendor in writing, when there is reason to believe that a Vendor is not fulfilling the terms of a contract or where the Vendor is proceeding towards a breach of contract, for possible resolution.
5. The Department Head must satisfy themselves that a clear breach of contract or failure to fulfill obligations has occurred. The Department Head must obtain a legal opinion as verified by the Town's Solicitor.
6. The Department Head will prepare a report to Council, noting a breach of contract or non-fulfillment, outlining options and recommend a time period to refuse bids from a Vendor, which is appropriate for the incident and the loss of value to the Town.
7. Vendors will be informed of their status by the Department Head or Manager of Purchasing and a list will be maintained by the Manager of Purchasing.
8. All bids for Vendors subject to Clause 17 will be rejected unless relief is gained from Council. It is possible that the Town may be at arms' length in litigation or pending litigation with a Vendor and the Town feels that the legal and work situation will not be compromised by entering another contract with the Vendor. In those situations, the Vendor may make a deputation to Council ahead of the bid closing date to have their bid accepted. Council must pass a resolution prior to the bid closing date explicitly accepting a particular bid. Council may also pass a resolution permitting the Vendor to bid under specific conditions. In cases where the Vendor has made an intention to make a deputation to Council to gain approval to submit a bid, the Vendor shall be able to obtain a copy of the bid documents, subject to conditions such as payment for documents, in order that the Vendor has an opportunity to complete the bid.

Tracking Process

The Manager of Purchasing will prepare and maintain a list of Vendors from whom the Town will refuse bids, and ensure the list is readily available to Town Staff who are administrating bid processes.

During both the bid taking and the bid opening process, the Manager of Purchasing will check the list containing the names of Vendors whose bids will be refused prior to the opening of bids to ensure that bids are not inadvertently opened.

Staff felt it was prudent to amend Section 17 to add clauses with respect to pending litigation in addition to non-fulfillment of contract terms or a breach of contract. Consideration was also given to how long a vendor will be precluded from bidding on work. It was felt the length of time should be left to the discretion of Town Council but that the maximum period of time should not exceed five years. In the event that this clause must be invoked, Staff will bring a report forward to Council to consider refusing bids from a Vendor.

It is important to note that any action to refuse to accept bids will only be done after all other means of dispute resolution have been exhausted such as negotiation, mediation and arbitration. The intention of a revised Clause 17 is that it is to only be used as a last resort after a normal working relationship has deteriorated to the point of being non-functional. The Town prides itself on building good working relationships with all vendors by focusing on cooperation, not confrontation.

In preparation of the revised wording for Clause 17 presented below, the Town's Manager of Purchasing made inquiries for best practices of other municipalities and consulted with senior Staff. The proposed wording has been reviewed and approved by the Director of Financial and Information Services and the Town Solicitor.

Staff recommend the following revised wording for Clause 17 within the Town's Purchasing Policy.

17. Refusal of Bid Responses

- A) The Town will not accept a bid response from:
 - i. Any person or corporation which includes any related corporation who, or which, has instituted a legal proceeding against the Town, or against whom the Town has instituted a legal proceeding with respect to any previous contracts, bid submissions or business transactions who is listed as either the proposed general contractor or sub-contractor or vendor within the submitted responses;
 - ii. Any person or corporation which includes any related corporation who, or which, is involved in pending litigation against the Town, or against whom the Town is involved in pending litigation with respect to any previous contracts, bid submissions or business transactions who is listed as either the proposed general contractor or sub-contractor or vendor within the submitted responses;
 - iii. Any Bidder who has not performed works for previous Contracts in compliance with the Contract Documents at the sole discretion of the Town;

- iv. Any Bidder who has previously breached a Contract with the Town at the sole discretion of the Town.
- B) The Town will suspend a bidder from bidding on Town Contracts for a term of up to five (5) years by Resolution of Council if:
- i. The Bidder has not performed works for previous contracts in compliance with the Contract Documents;
 - ii. The Bidder has previously breached a Contract with the Town
- C) Notwithstanding that the Town will not accept a bid response for the reasons outlined in Section A), the vender may make a deputation to Town Council to gain relief from the refusal to accept bids provided that:
- i. The Bidder demonstrates that the proposed work is substantially different from the type of work from which the Town originally instigated the refusal to accept bids, and
 - ii. The Town Council grants relief from the refusal to accept bids prior to the scheduled bid opening date and time of work for which the Vendor wants to bid upon.

Once the revised wording for Clause 17 has been approved by Council, the Town's Purchasing of Goods and Services Policy will be revised. The Purchasing of Goods and Services Procedures document will also be revised to guide Staff on how this clause will be used. Key points for inclusion in the Procedures are:

- To be invoked only after all other means of resolution are frustrated
- A clear breach of contract or failure to fulfill obligations has occurred verified by legal opinion by Town Solicitor
- If the Town's position is proven incorrect during litigation, the clause will be revoked
- Time period to refuse bids is appropriate for the incident and the loss of value to the Town
- Vendors will be informed of their status and a list will be maintained by Manager of Purchasing
- All bids for vendors subject to Clause 17 will be rejected unless relief is gained from Council. It is possible that the Town may be at arm's length in litigation or pending litigation with a vendor and the Town feels that the legal and work situation will not be compromised by entering another contract with the vendor. In those situations, the vendor may make a deputation to Council ahead of the bid closing date to have their bid accepted.

- Wording will be included in the bid documents and agreements to inform future vendors that non-fulfillment of the contract will preclude them from working for the Town for a period of time up to 5 years.
- During the bidding opening process, Staff will check the list containing the names of vendors whose bids will be refused prior to the opening of bids to ensure that bids are not inadvertently opened.

Staff training will be required to ensure that users of the Purchasing Policy and Procedure understand the revised Clause 17 and implications of the same.

C. The Blue Mountains' Strategic Plan

Town's Strategic Plan Goal # 2 "Addressing the Town's Municipal Infrastructure needs" and Strategic Plan Goal #6 "Providing a strong, well managed municipal government" are in part satisfied by the recommended action.

D. Environmental Impacts

None.

E. Budget Impact

The implementation of this process will require Staff time to modify the Town's Purchasing Policy and Procedure and relevant purchasing templates. Staff time will also be required to provide justification and defend the need to invoke a refusal to accept bids. There may also be costs associated with legal fees to defend the Town's actions.

F. Attached

None.

Respectfully submitted,

Reg Russwurm
Director, Engineering and Public Works

For more information, please contact:
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(519) 599-3131 x260

**THE CORPORATION OF THE TOWN OF
THE BLUE MOUNTAINS**

By-law No. 2010 -

**Being a By-law to amend a policy of the Town detailing the procurement of
goods and services**

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, chapter 25, S.O. 2001 (the Act), as amended, states that a municipal power, including a municipality's capacities, rights, powers and privileges under section 9, shall be exercised by by-law;

AND WHEREAS section 270 of the *Municipal Act, 2001* states that a municipality shall adopt and maintain policies with respect to certain matters including the procurement of goods and services;

AND WHEREAS Council did enact By law No. 2008-94 to adopt a Purchasing of Goods and Services Policy, being policy POL.COR.07.05 on October 15, 2008;

AND WHEREAS it is deemed expedient by Council to amend the previously approved Purchasing of Goods and Services Policy;

NOW THEREFORE Council of the Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. THAT Town Policy POL.COR.07.05, "Purchasing of Goods and Services Policy", is hereby amended with the revisions detailed in Staff Reports EPW.09.01 and FIS.10.43.

AND FURTHER that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this day of , 2010

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Ellen Anderson, Mayor

.....
Corrina Giles, Clerk