



Purchasing of Goods and Services Policy

POL.COR.07.05

Policy Type: Corporate Policy (Approved by Council)
Date Approved: November 28, 2016
Revisions Approved: June 3, 2019
Department: Finance and IT Services
Staff Report: FAF.16.102, FAF.18.108, FAF.19.040
By-Law No.: 2016-69, 2018-43, 2019-23

Policy Statement

The goals of this policy are:

- I. To promote and maintain the integrity of the purchasing process;
- II. To obtain the best value by ensuring quality, efficiency and effectiveness.

Purpose

This policy will ensure openness, accountability and transparency of Town purchasing while protecting the financial best interest of the Town of The Blue Mountains.

This policy will outline the guiding principles of public procurement and the approach that the Town of The Blue Mountains and its operating departments will take when procuring goods and services. The detailed purchasing procedures shall be consulted prior to proceeding with any procurement.

The Town shall:

- Encourage competition amongst suppliers by using an open, transparent and fair process;
- Assist and provide direction to Staff, Vendors and Council relating to the procurement process;
- Where practicable, provide accessibility for persons with disabilities when purchasing goods, services and construction;
- Be environmentally conscious through the purchase of goods and services;

- Strive to ensure ethical purchasing practices are used by all staff.

Application

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

Local Boards that have not enacted their own Purchasing Policy will be required to comply with the Town's Purchasing Policy.

Procedures

The Manager of Purchasing shall have the authority to develop procedures to implement this policy in association with the Senior Management Team.

The Purchasing Procedures will be approved by the Senior Management Team and are to be used as instruction for staff when purchasing goods or services in compliance with this policy.

The Manager of Purchasing will administer this policy.

Any question involving the meaning or application of this policy is to be submitted to the Manager of Purchasing who will resolve the question.

No contract or purchase shall be divided to avoid any requirements of this policy.

Procurement Methods

All purchase of goods, services and construction shall be undertaken utilizing one of the following methods of procurement, using standardized documents.

Where long term, valued relationships exist with material, equipment or support services providers, they should be examined periodically to ensure that the Town is getting the best value when purchasing.

Informal Processes

Informal processes are to be completed by the user department and shall include direct purchase or Informal Quotations. It will also include the Request for Quote process where Purchasing will assist in the document creation with the user department.

1. Direct Purchasing

Direct purchase, as described below, may be used when:

1. The dollar value of the item is equal to or less than \$5,000.

2. The item is not covered under a Blanket Order Contract.

2. Request for Quotation (RFQ)

Request for Quotation procedures will be used when:

1. The cost of the item is between \$5,000 and \$24,999.
2. The ability exists to detail what is being purchased.
3. Document title will be consecutively numbered based on the Town's numbering and naming convention. User division shall request such number.
4. Best Value for the Town can be achieved by an Award selection made on the basis of the lowest compliant bid that meets specifications.

Formal Processes

Formal processes will be issued by Purchasing and shall include Request for Tender or Request for Proposal.

3. Request for Tender (RFT)

RFT procedures shall be used when:

1. The cost of the item is \$25,000 or greater.
2. The ability exists to detail what is being purchased.
3. Best Value for the Town can be achieved by an Award selection made on the basis of the lowest compliant bid that meets minimum specifications

4. Request for Proposal (RFP)

Request for Proposal procedures shall be used when:

1. The requirement is best described in a general performance specification.
2. Innovative solutions are sought.
3. The Award selection will be made based on a fully disclosed evaluation method involving a combination of mandatory and desirable requirements.

Other Processes

5. Blanket Order Contracts

Blanket Order Contracts occur as a result of a previous competitive bid, which establishes the successful bidder as the preferred source for a product or service over a specific term.

6. Rotational Rosters

A Rotational Roster is the result of a competitive bidding process, which prequalifies vendors to be placed on a list where they will be provided an equal opportunity to perform work for the Town as it becomes available.

7. Unsolicited Proposals

Unsolicited bids received by the Town shall be reviewed by the respective Department Head and Purchasing. Unsolicited proposals must be in writing detailing information on a product or service that may provide the Town with significant value or savings.

8. Cooperative Purchasing

The Manager of Purchasing and Department Head(s) are hereby authorized to participate in cooperative 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. Award approvals of all Co-operative Purchasing contracts shall be in accordance with the Purchasing Procedures. Notice of Participation in cooperative purchases will be posted annually to the Town's website in accordance with the requirements of CETA and CFTA.

9. Sole and Single Sourcing

Sole Sourcing is a method of procurement whereby a purchase order is issued or contract awarded without a competitive bidding process due to the fact that the supplier is the only source of supply for the required goods or services.

Sole Sourcing will be permitted if one or more of the following circumstances apply:

1. One supplier/contractor possessing the unique ability or capability to meet the requirements of the Town due to a patent, sales/distributor agreement or copyright
2. Service is obtained from a public utility

3. The supply relates to necessary unique replacement parts from an exclusive source of supply.
4. The supply relates to the purchase of parts that must be compatible with goods previously supplied, and there are no reasonable alternatives to the products.
5. To maintain warranty or service agreement compliance for purchased products.
6. When the required item is covered by an exclusive right such as a patent, copyright or exclusive license.

Single Sourcing is a method of procurement whereby there is more than one vendor able to supply and a purchase order is issued or contract awarded without a competitive bidding process.

Single Sourcing will be permitted if one or more of the following circumstances apply:

1. disclosure of information in an open contract competition would breach some duty of confidentiality or compromise security
2. the compatibility of a purchase with existing equipment, product standards, facilities or service is a paramount consideration
3. there is an absence of competition for technical reasons and the Goods and/or Services can only be supplied by a particular Supplier
4. an unforeseeable situation of urgency exists and the Goods and/or Services cannot be obtained in time by means of open procurement procedures
5. there are no bids in response to a Bid Solicitation
6. a Roster for Professional Services has been developed
7. when competitive procurement may be found to be impractical
8. where a good is purchased for testing or trial use and there is a clearly established deadline for the testing or trial period that does not exceed 12 months
9. when an urgent procurement is necessary for fulfilling a statutory order issued by a federal or provincial authority (i.e. compliance order)

The use of Sole and Single Sourcing with a particular vendor exceeding \$25,000 must be approved by Council. Any single or sole sourcing with an amount between \$5,001 and \$24,999 must be reported by the applicable Department Head and approved by the Manager of Purchasing and Director of Finance. In order for a division to sole or single source for goods or services exceeding \$25,000, an operating strategy must be presented with Purchasing input and approved by Council, outlining the rationale. Input must be sought from the Manager of

Purchasing to ensure the purchasing principles in the Town's Procedures are taken into consideration and risk to the Town is minimized.

10. Negotiation

Negotiation may only be used under the following circumstances:

1. Those outlined within Sole and Single Sourcing.
2. As a result of an RFP process, if required.
3. With respect to RFT's, and RFQ's, the Town may enter into negotiations with the lowest compliant bidder if the price bid is over the budgeted amount for the project. Should the Town be unable to reach an agreement with the lowest compliant bidder, the Town reserves the right to enter into negotiations with the next lowest compliant bidder, to cancel the bid opportunity or to present a report to Council whichever is deemed to be in the best interest of the Town.
4. All bids received failed to meet the specifications and/or tender terms and conditions and it is impractical to recall tenders.

It is the responsibility of Purchasing to ensure that all competitive bidding options have been considered prior to the negotiation method being utilized.

11. Procurement in Emergencies

Notwithstanding the provisions of this policy, an emergency purchase shall be made when an event occurs that is determined by the Mayor, the C.A.O. and/or Department Head to be a threat. Where in the above opinion an emergency has occurred, non-competitive procurement or negotiation methods may be utilized.

The User Division shall submit a memorandum to Council outlining the purchase and the conditions that constituted an emergency, together with a source of funding, prior to the end of the quarter in which the emergency procurement took place. If Council approval for the funding source is required, the User Division shall submit the above information in the form of a Staff Report to the next available Council meeting.

12. Non-Competitive Purchases

Under the direction and control of Purchasing, the requirement for competitive bid solicitation for goods and services may be waived under the authority of this Policy and replaced with Negotiations.

13. Request for Expression of Interest

Requests for Expression of Interest may be issued to prequalify vendors for various projects or purchases or to obtain information on the availability and interest of suppliers of any goods or services. Requests for Expression of Interest may or may not result in the development of a list of available suppliers.

14. Request for Pre-Qualification (RFPQ)

RFPQ may be issued to prequalify vendors for various projects or purchases. The purpose of an RFPQ is to determine whether the qualifications of a bidder, as required by the Town, are at a level that will allow participation in a subsequent bidding opportunity that takes place as a direct result of the Request for Pre-Qualification.

15. Request for Information (RFI)

An RFI may be issued by Managers/Purchasing to provide staff with specifications for future use.

An RFI may be issued in advance of a formal bid process to assist in the development of a more definitive set of terms and conditions, scope of work/service and the selection of qualified Vendors.

An RFI may or may not lead to a formal bid process.

16. Goods and Services Exempt from Procurement Policy

The purchasing methods described in this Procedure do not apply to the following Goods and Services:

- a) Training and Education
- b) Registration, accommodation and tuition fees for conferences, conventions, courses and seminars
- c) Magazines, books and periodicals
- d) Memberships
- e) Staff development or staff workshops
- f) Refundable Employee/Councillor Expenses
- g) Advances
- h) Meal allowances
- i) Travel (fuel, accommodation etc.)
- j) Ongoing maintenance for existing computer hardware and software
- k) Employer's General Expenses
- l) Payroll Deduction Remittances
- m) Medicals
- n) Licenses
- o) Debenture Payments

- p) Grants to Agencies
- q) Damage Claims
- r) Tax Remittances
- s) Insurance Premium payments
- t) Refunds to property owners (property tax, building permit, entrance permit, etc.)
- u) Professional and Special Services up to \$100,000 including:
 - i. Committee fees, witness fees
 - ii. Realty services regarding lease, acquisition, demolition, sale, disposal or appraisal of land
 - iii. Advertising services required in radio, television, newspaper or magazines
 - iv. Bailiff or collection agencies
 - v. Freight charges
 - vi. Utilities
- v) Performance / Artist's Fees
- w) Employee Group Benefits
- x) All legal services and fees
- y) Professional and Special Services exceeding \$100,000 must be procured formally.

17. Risk Management

Risk Management ensures that the Town's interests are protected through the bidding process.

Risk Management includes:

- Bid deposits
- Performance, Labour & Material Payment and Maintenance Bonds
- Holdbacks
- Liquidated Damages

The Manager of Purchasing in consultation with the Project Manager will ensure that adequate security is provided in each bid opportunity.

18. Insurance & WSIB

The Manager of Purchasing in consultation with the Project Manager will ensure that satisfactory insurance coverage is obtained from each contractor and consultant working for the Town. Insurance limits will be based on recommendations from the Town's Insurer and insurance types will be relevant to the goods, services or construction being purchased.

All contractors and consultants will be required to provide the Town with appropriate documentation outlining Workplace Safety Insurance Board (WSIB) coverage.

19. Exclusion of Bidders in Litigation

The Town may, in its absolute discretion, reject a bid submission prior to or after a bid opening from any bidder that is:

- in litigation with the Town; or
- is directly or indirectly, including by common ownership or control or otherwise, related to a party to litigation with the Town; or
- intends to use a sub-contractor in respect of a specific project who is party to litigation with the Town or who is directly or indirectly, including by common ownership or control or otherwise, is related to a party to litigation with the Town.

“Party to litigation with the Town” includes cases in which the Bidder or prospective Bidder or any of the parties included have advised the Town in writing of their intent to commence litigation or have commenced or have advised the Town of their intention to commence an arbitral proceeding against the Town.

Bids from any Bidder in any of these circumstances shall be rejected as informal and non-compliant.

20. Conflict of Interest

It is the responsibility of all staff, Council or Board members involved in bid solicitation or evaluation to disclose any inherent or potential Conflict of Interest to their Manager or Department Head or in the case of a Member of Council or Board Member, to the C.A.O. Any staff, Council or Board member disclosing a Conflict of Interest shall remove himself from the associated procurement process.

21. No Local Preference

In accordance with the Discriminatory Business Practices Act, as amended, there shall be no local preference given to any Bidder when awarding a Bid for purchase of Goods, Services and Construction for the Town.

22. Trade Agreements

Procurement by the Town may be subject to the provisions of trade agreements. Where an applicable trade agreement is in conflict with this Policy, the trade agreement shall take precedence.

23. Lobbying Prohibited

The Town shall be entitled to reject a bid submission if any representative of a Bidder, including any other parties that may be involved in a joint venture, consortium, subcontractor or supplier relationship, makes any representation or solicitation to any elected official, employee or agent of the Town. This requirement does not extend to any public deputations that may be made to

Council in accordance with the Procedural By-law.

24. Tie Bids

In the case of tie bids between two responsive and responsible bidders and, where multiple awards are not an alternative for award, the Town shall determine the successful bidder by coin toss. The Manager of Purchasing and at least two members of the User Division must be present.

In the case of tied bids between three or more responsive and responsible bidders and where multiple awards are not an alternative for award, the Town shall determine the successful bidder by a draw of the bidder names from a hat. The Manager of Purchasing and at least two members of the User Division must be present.

25. Authorizations

Council has the ultimate authority for all expenditures. Council provides the authority to Staff for the initiation and completion of procurement processes for goods, services and construction through the authorization of annual budgets or resolutions.

26. Council Approval Required

Despite any other provisions of this Policy, the following procurements, over \$25,000, excluding taxes, are subject to prior Council approval:

1. Any contract requiring approval from the Local Planning Appeals Tribunal (LPAT).
2. Any acquisition of goods or services that is not already approved in the current year's budget, such as items requiring pre-budget approval or post-budget amendments, must be reported to Council in order to have the expenditure authorized via resolution.
3. Where the net revenue amount proposed for acceptance is lower than the Council approved budget
4. Any contract where the award is not being recommended to the lowest compliant bidder, with the exception of Request for Proposals
5. Any contract anticipated to be financed by debentures

Purchasing will provide a report to Council on a monthly basis outlining all awards that fall within Staff Authorized Awards in excess of \$25,000.

27. Authority to Reallocate Approved Budget Funds

To ensure proper expenditure management and budget accountability, each Director is

responsible for ensuring that all purchases remain within the Department's approved operating budget or approved capital project budget, unless otherwise provided for in this policy.

Reallocation of funds between Operating Budgets and Capital Budgets is not permitted under any circumstances.

In order to allow purchases to proceed which exceed the approved budget, a Director shall have the authority to reallocate funds, without exceeding the aggregate budget within their control, under the following conditions:

Operating Budget

1. The shortfall for the purchase of the goods or service is less than \$10,000;
2. All changes must be one-time and shall not affect the base budget;
3. Reallocations may only occur within or between supplies and services accounts;
4. General scope of work or service delivery method cannot be changed;
5. The funding source must be the same for all accounts affected by the reallocation.

Capital Budget

1. The shortfall cannot exceed 20% of the project budget to a maximum of \$75,000;
2. General scope of work or service delivery method cannot be changed;
3. If reallocating funds from a capital project/component, the capital project/component in which funds are being transferred from must already be an Awarded project/component;
4. Revised Bid Award Form must be completed when funds are reallocated;
5. The funding source must be the same for all accounts affected by the reallocation.

All other budget over-runs must be approved by Council before Award is made.

28. Authority to Award

This section outlines the Authority to Award a Bid in accordance with the intent of the purchasing methods outlined in this policy.

The full amount, excluding applicable net taxes, for the supply of Goods, Services or Construction shall be considered when determining the Authority to Award.

| Authority to Award | Dollar Value | Method of Procurement if Formal or Informal | Method of Award |
|---|--|--|--|
| Council | Unlimited | n/a | Council Resolution |
| CAO, Director and Manager of Purchasing | \$250,000 or greater | Tender or RFP | Bid Award Form |
| Director and Manager of Purchasing | \$25,000 up to but not including \$250,000 | Tender or RFP | Bid Award Form |
| Manager or designate | Less than \$25,000 | Direct Purchase | Bid Award Form (if no budget reallocation) |

29. Authority for Payment

Authority for Payment in this schedule relates to payments of amounts contained in approved budgets or by Resolution only. During scheduled absences, Directors are able to delegate signing authority to selected individual(s) with a written notice to the Director of Finance.

Regulatory payments (payroll deductions etc.) are excluded from this schedule.

The numbers in this table are maximums. Directors have the right to lower these numbers at their discretion.

Authority limits for payment are as follows:

| POSITION | DETAIL | LIMIT |
|---|---|--------------------------------|
| Chief Administrative Officer | All expenditures | As per Council approved budget |
| Director / Fire Chief | All expenditures | As per Council approved budget |
| Supervisory Staff as designated by Director | General Purposes – day-to-day departmental requirements | \$100,000 |
| Senior Staff as designated by Director | General Purposes – day-to-day departmental requirements | \$25,000 |
| General Staff as designated by Director | General Purposes – day-to-day departmental requirements | \$5,000 |

30. Accessibility and Procurement

Town of The Blue Mountains is a major purchaser of goods and services. It is important that procurement processes are inclusive so that all vendors can participate, and all contracted parties are aware of the need to provide accessible goods and services.

Exclusions

n/a

References and Related Policies

Procurement Legislation and Guidelines

The Municipal Act, 2001, Part VI, Section 270, as amended states that before January 1, 2005, a municipality shall adopt and maintain a policy with respect to procurement of goods and services. Although procurement is governed by Contract Law, there are various Trade Agreements and Guidelines to be considered.

I Contract Law in Canada

A contract is any legally enforceable agreement. Any agreement to purchase is a contract if it involves the following elements:

- a. A legal offer that is clearly defined – offers must be unambiguous, not vague
- b. Acceptance of said offer. Acceptance terms must match offer terms
- c. Legal consideration – both parties have given something of value
- d. Legal purposes – contract must be of/for legal goods and/or services
- e. Legal intention – each participant must have intended to be part of the contract
- f. Competence – or legal capacity to enter into a contract

Verbal Contracts – although legal and binding, are always vague and lack important terms and conditions; any deals should be in writing wherever possible.

II Trade Agreements

Canadian Free Trade Agreement
Comprehensive Economic Trade Agreement
Agreement on the Opening of Public Procurement for Ontario and Quebec
Agreement on Internal Trade

III The Discriminatory Business Practices Act

The purpose and intent of this Act is to prevent discrimination in Ontario on the ground of race, creed, colour, nationality, and ancestry, place of origin, sex or geographical location of persons employed in or engaging in business. R.S.O. 1990, c. D.12, s. 2.

IV Conflict of Interest Act

It is a criminal offence when an elected politician, public official or government employee acts contrary to his or her duty to the public to obtain a personal benefit per Section 122 of the Criminal Code.

Consequences of Non-Compliance

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 every term of Council.

Schedule A - Irregularities Contained within Paper Bids

The following list of irregularities should not be considered all inclusive. The Manager of Purchasing and, as may be warranted, in consultation with any or a selection of the following, respective departmental staff, C.A.O. and/or the Town’s Solicitor, shall review irregularities not specifically listed and, acting in the best interests of the Town, have authority to waive such irregularities, permit correction to the irregularity or reject the submission.

| | Irregularity | Response |
|----|---|---|
| 1. | Late Submissions. | Rejection; not opened or read publicly. Submission to be returned to submitter. |
| 2. | Insufficient Financial Security (No bid bond/deposit or agreement to bond or insufficient bid bond/deposit). | Automatic Rejection for no bid deposit. Automatic Rejection for no agreement to bond. 48 hours to correct shortfall in bid deposit if less than required by no more than 10%. |
| 3. | Conditional Bids (Bids qualified or restricted by an attached statement). | Automatic rejection unless, in the opinion of Department Head and Purchasing, the qualification or restriction is insignificant. |
| 4. | Illegible or obscure Bids, non-initialed erasures, non-initialed alterations. | Automatic rejection. |
| 5. | Documents, in which all necessary Addenda which have significant financial or scope implications in the opinion of the Purchasing Manager and user group, have not been acknowledged. | Automatic rejection. |
| 6. | Documents in which all necessary Addenda which do not have significant financial or scope implications in the opinion of the Purchasing Manager and user group, and have not been acknowledged. | 48 hours to submit. |
| 7. | Bids received from bidders who did not attend mandatory site visit(s). | Automatic rejection. |
| 8. | Bids received on documents other than those provided by the Town, when specified to do so. | Automatic rejection. |

| | Irregularity | Response |
|-----|--|--|
| 9. | Failure to insert the bidder's business name in the space(s) provided on Mandatory Submission Pages. | 48 hours to submit. |
| 10. | Failure to include signature of the person authorized to bind the bidder in the space provided on the Tender / Proposal Form. | 48 hours to submit. |
| 11. | More than one submission from the same submitter and not identified as an alternative or optional submission and no written withdrawal notice has been received. | The submission package bearing the most recent date/time stamp will be considered the intended submission and the previously date/time stamped submissions will be considered withdrawn and will be returned to sender, unopened. |
| 12. | Bids Containing Mathematical Errors | <p>If the amount tendered for a unit price item does not agree with the extension of the estimated quantity and the tendered unit price, or if the extension has not been made, the unit price shall govern and the total price shall be corrected accordingly.</p> <p>If both the unit price and the total price are left blank, the Bid will be rejected as incomplete.</p> <p>If the unit price is left blank but a total price is shown for the item, the unit price shall be corrected according to the total provided.</p> <p>If the Tender contains an error in addition and/or subtraction in the approved tender documentation format requested (i.e. not the additional supporting documentation supplied), the error shall be corrected and the corrected total Contract price shall govern.</p> <p>Tenders containing prices which appear to be so unbalanced as to likely affect the interests of the Town adversely will be clarified and may be rejected.</p> |

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| | Irregularity | Response |
|-----|----------------------------|--|
| 13. | Other minor irregularities | Purchasing, in conjunction with the Director of Finance shall have authority to waive irregularities, which they jointly consider to be minor. |
| 14. | Any irregularity | Despite all provisions herein contained Purchasing, in conjunction with the members of the Senior Management Team may waive any irregularity where it considers it to be in the best interest of the Town. |

**Schedule B - Irregularities Contained within Bids
Applicable to Electronic Bids Only**

The following list of irregularities should not be considered all inclusive. The Manager of Purchasing and, as may be warranted, in consultation with any or a selection of the following, respective departmental staff, C.A.O. and/or the Town’s Solicitor, shall review irregularities not specifically listed and, acting in the best interests of the Town, have authority to waive such irregularities, permit correction to the irregularity or reject the submission.

| | Irregularity | Response |
|----|---|--|
| 1. | Late Submissions – Bid received after the closing date and time specified in the Bid Document | Bidding system does not accept late bids |
| 2. | Addenda not acknowledged | Bidding system does not accept bids that have not acknowledged all addenda |
| 3. | Site Meeting – Bidder did not attend a mandatory site meeting | Bidding system does not allow submissions from vendors that have not attended a mandatory site meeting |
| 4. | Method of Delivery – where the bid has been submitted via any other method other than through the Bidding System, where no such provision is allowed for in the bid document | Bid declared non-compliant |
| 5. | Format – bid not on the form supplied by the Town or not in the format specified in the bid document | Bid declared non-compliant |
| 6. | Bid Bond / Agreement to Bond – Bond is missing, the amount is less than the amount indicated in the bid document or the bonding company is not licenced to conduct business in Ontario. | Bid declared non-compliant |
| 7. | Bid Bond – Bond is not electronically verifiable / enforceable (e-Bond) as indicated in the bid documents | Bid declared non-compliant |

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| | Irregularity | Response |
|-----|---|---|
| 8. | Documents – documents provided through the Bidding System are not the required documents or are not legible | Bid declared non-compliant |
| 9. | Qualified Bid – where the bid has been qualified by changes to specifications or major requirements and acceptance would allow an unfair advantage over competitors | Bid declared non-compliant |
| 10. | Other minor irregularities | Purchasing, in conjunction with the Director of Finance shall have authority to waive irregularities, which they jointly consider to be minor. |
| 11. | Any irregularity | Despite all provisions herein contained Purchasing in conjunction with the members of the Senior Management Team may waive any irregularity where it considers it to be in the best interest of the Town. |