

THE CORPORATION OF THE TOWNSHIP OF SOUTH DUNDAS

BY-LAW NO. 2012-29

A BY-LAW to adopt amended Policy No. 3-6, the Procurement Policy.

WHEREAS *the Municipal Act, 2001, S.O. 2001, Chapter 25*, as amended, states that a municipality and a local board shall adopt policies with respect to certain matters;

NOW THEREFORE the Council of the Corporation of the Township of South Dundas hereby enacts as follows:

1. THAT Policy No. 3-6, as amended and attached as Schedule "A" to this by-law is hereby approved.
2. THAT the Policy in Schedule "A" shall be effective on the date of passing.

READ and passed in open Council, signed and sealed this 6th day of March, 2012.

MAYOR

CLERK

Schedule "A" to By-Law No. 2012-29

POLICY MANUAL	POLICY NO. 3-6
For Township of South Dundas	EFFECTIVE DATE: December 21, 2004 Revised: March 2012
SUBJECT: Procurement	DEPARTMENT: All Departments

PROCUREMENT POLICY

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SECTION I
DEFINITIONS

The words and phrases listed below when used in the By-law shall have the following meanings ascribed to them:

1. **Acquisition**
means the process used for obtaining goods and services
2. **Agreement**
means a legal document that binds the Township of South Dundas and all other parties, subject to the provisions of the contract
3. **Annual Aggregate Value**
means the total amount anticipated to be spent annually by all departments on a particular type of good or service
4. **Approval**
means authorization to proceed with the purchase or disposal of goods and/or services
5. **Bid**
means an offer or submission received in response to a request for quotation, tender or proposal which is subject to acceptance or rejection
6. **Bid Bond**
means the form of security required by the terms and conditions of Bid Solicitation documentation to guarantee that the successful bidder enters into a Contract with the Township of South Dundas
7. **Bid Irregularity**
means a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response (see Appendix B)
8. **Bid Request**
means a written request for bids or a solicitation, which may be in the form of a Request for Quotation, Request for Tender or Request for Proposal
9. **Chief Administrative Officer (CAO)**
means the Chief Administrative Officer of the Corporation of the Township of South Dundas and/or his/her designate, who is responsible for the Municipality's centralized purchasing function and is hereby authorized to act as agent in all such matters pertaining thereto
10. **Clerk**
means the Clerk of the Corporation of the Township of South Dundas and/or his/her designate

11. **Contract**
means any agreement, regardless of form or title, for the lease, purchase, or disposal of Goods, Service or Construction authorized in accordance with this By-law
12. **Conflict of Interest**
refers to a situation in which private interests or personal considerations may affect an employee's judgment in acting in the best interest of the Township of South Dundas. It includes using an employee's position, confidential information or corporate time, material, or facilities for private gain or advancement or the expectation of private gain or advancement. A conflict may occur when an interest benefits any member of the employee's family, friends, or business associates. Members of Council shall be guided by the Municipal Conflict of Interest Act.
13. **Construction**
means a construction, reconstruction, demolition, repair, or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, soil investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering design or architectural work, but does not include professional services related to the construction contract unless they are included in the specifications for the procurement.
14. **Corporate Signing Officer**
means the Head of Council, and Municipal Clerk or other individuals designated by Council for this policy.
15. **Cost Effective Bid**
means a bid received in response to a request that offers the best value for the dollars expended taking into consideration a quantitative and qualitative selections procedure
16. **Council**
means the Council of the Corporation of the Township of South Dundas
17. **Co-op**
means a Co-operative acquisition venture
18. **Department Head**
means the person responsible for direction and operational control of a Department or authorized designate

- 19. Designated Signing Authorization**
provides the authority for members of staff to execute legally binding contracts, on behalf of the Township of South Dundas. Thresholds governing signing authorizations are as follows:
- a. Purchase Requisitions
 - \$0 - \$5,000 - Department Head
 - \$5,001 - \$20,000 - as per Departmental signing authority
 - over \$20,000 - CAO
 - b. Agreements/Contracts
 - \$0 - \$20,000 - as per Departmental signing authorization
 - \$20,001 and over - Head of Council and Municipal Clerk
- 20. Direct Appointment**
means to directly appoint a consultant on the basis of defined selection criteria, including but not limited to qualifications and experience
- 21. Disposal**
means the removal of materials owned by the municipality, which are deemed surplus, by sale, trade-in, auction, alternative use, gift, or destruction
- 22. Emergency**
means a situation, or the threat of an impending situation, which may affect the environment, the life, safety, health and/or welfare of the general public, or the property of the residents of the Township of South Dundas, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level;
- 23. Execute**
means to legally bind the Township of South Dundas to the terms and conditions defined within the Agreement
- 24. Expression of Interest**
means a situation where vendors are solicited by the Municipality to advise the Municipality of their ability or desire to undertake municipal requirements
- 25. Goods**
means moveable property including, the cost of installing, operating, maintaining, or manufacturing such moveable property; raw materials, products, equipment and other physical objects of every kind and description;
- 26. In House Bid**
means a bid made by a Department and authorized by the Head of that Department, submitted in response to a Bid Solicitation, where the provision of the Goods, Services or Construction will be provided entirely by the employees of the Township of South Dundas

27. **List of Bidders**
means a list, retained by the Department Head of those vendors who are interested in submitting bids
28. **Lowest Responsive Bid**
means the bid that would provide the Township of South Dundas with the desired Goods, Services or Construction at the lowest bid price, meets all the specifications and contains no irregularities requiring automatic rejection.
29. **Material Safety Data Sheets (MSDS)**
means Material Safety Data Sheets which must be submitted by the vendor for all hazardous materials, including an index of chemical compounds with details of properties, handling details, precautions and first-aid procedures
30. **Municipality**
means the Corporation of the Township of South Dundas
31. **Negotiation**
means the action or process of conferring with one or more vendors leading to an agreement on the acquisition of the required goods and services under the conditions outlined in this Policy
32. **Open Market Procedure**
means obtaining price quotations from vendors verbally or in writing
33. **Privilege Clause**
means the standard clause used in bid documents and advertising that reads in part "the lowest or any tender not necessarily accepted"
34. **Procure/Procurement/Purchase**
means to acquire by purchase, rental or lease of goods and/service
35. **Professional and Consulting Services**
means persons having a specialized knowledge or skill for a defined Service requirement including:
- a) architects, auditors, engineers, designers, planners, surveyors, management and financial consultants, brokers, legal services; and,
 - b) firms or individuals having specialized competence in environmental, planning or other disciplines; and,
 - c) any other professional and consulting services rendered on behalf of the municipality

36. **Proposal (Request for Proposal /RFP)**
means an offer to provide goods or services to the Municipality, where it is not practical to prepare precise specifications, or where “alternatives” to detailed specifications will be considered, which may be subject to further negotiation. This process allows vendors to propose solutions to arrive at the end product, and allows for evaluation on criteria other than price.
37. **Purchasing Card**
means a card issued in accordance with the Purchasing Card Policy, to purchase Goods and Services;
38. **Quotation (Request for Quotation/RFQ)**
means an offer to sell goods and services to the Municipality or an offer to purchase surplus goods from the Municipality
39. **Real Property**
means land or buildings and any interest, estate or right of easement affecting same
40. **Responsive and Responsible Vendor**
means one who complies with the provisions of the bid solicitation, including specifications, contractual terms and conditions, and who can reasonably be expected to provide satisfactory performance on the proposed contract based on reputation, or references, or performance on previous contracts, and adequate financial and other resources
41. **Single Source**
means there is more than one source in the open market but only for reasons of function or service one vendor is recommended for consideration of the particular goods and/or services
42. **Surety**
means a specified dollar amount in the form of cash, certified cheque, bid bond, performance bond, labour and materials bond, letter of credit or any other form as deemed necessary and stated in any quotation, tender or proposal documents issued by the Municipality
43. **Tender**
means an offer received from a supplier of goods and/or services in response to a public advertisement requesting tenders sealed in an envelope
44. **Treasurer**
is the Treasurer of the Corporation of the Township of South Dundas and/or his/her designate

45. Verbal Quotation

means the requisitioning department will receive pricing via telephone or in person, and will retain written documentation of the conversation and document the information on the requisition.

SECTION II
PURPOSES, GOALS AND OBJECTIVES

The purposes, goals and objectives of this By-Law and of each of the methods of procurement authorized are:

1. to procure by purchase, rental or lease the required quality and quantity of goods and/or services, including professional and consulting services in an efficient, timely and cost effective manner;
2. encourage open and honest competitive bidding that is consistently fair and impartial for the acquisition and disposal of goods and services where practicable;
3. to consider all costs, including, but not limited to, acquisition, operating, training, maintenance, quality, warranty, payment terms, disposal value and disposal costs, in evaluating bid submissions from qualified, responsive and responsible vendors
4. to give full consideration to the annual aggregate value or to consider the total project cost of specific goods and services that will be required by each department and by the Municipality as a whole prior to determining the appropriate acquisition method;
5. to co-ordinate purchases on a municipal-wide basis when appropriate in order to obtain available volume discounts and best possible price;
6. to monitor and report on the economic climate and legislative changes which may have an impact on the Township of South Dundas and to determine the appropriate actions to be taken through purchasing policies and procedures;
7. to encourage the procurement of goods and services with due regard to the preservation of the natural environment, vendors may be selected to supply goods made by methods resulting in the least damage to the environment and supply goods incorporating recycled materials where practicable.
8. to have regard to the accessibility for persons with disabilities to the Goods, Services and Construction purchased by the Township of South Dundas.
9. this policy will be reviewed every 5 years or earlier, to evaluate its effectiveness.

SECTION III
GENERAL CONDITIONS

1. The Purchasing Coordinator shall be the CAO of the Township of South Dundas.
2. Where a Department Head is authorized to undertake any act pursuant to this Policy, such act may be undertaken by the Department Head's authorized designate.
3. All local boards and committees of the Township of South Dundas are bound by this By-Law and this By-law shall apply with necessary modifications to such local boards and committees.
4. Any commitments being made where it is recommended that a contract be executed by the Head of Council and the Clerk, must first be approved by Council.
5. Where it is recommended that a contract be executed, it will be authorized:
 - i. For contracts over \$20,000
by the Head of Council and Clerk after being approved by Council
6. No expenditure or commitment shall be incurred or made and no account shall be paid by the municipality for goods and services, except as approved by Council or as otherwise authorized in accordance with this policy.
7. The CAO in consultation with the Department Head of the requisitioning department may remove a vendor's name from the list of bidders for a period of up to two years on the basis of documented poor performance, non-performance, or conflict of interest. A written notice of the decision will be provided to the vendor by the Department Head.
8. In order to be eligible to perform work on Municipal property, all contractors must provide evidence of appropriate insurance and current Workplace Safety and Insurance Board clearance and applicable licenses and approvals.
9. Vendors must provide Material Safety Data Sheets (MSDS) for all relevant products being purchased by the Municipality.
10. Material Safety Data Sheets must be maintained on file by the user department for all relevant products whether acquired through tendering, quoting or the proposal process.

11. When using the privilege clause which reads in part "the lowest or any tender may not necessarily accepted", the specific reasons must be stated why the bids may not be accepted.
12. The CAO will assist in developing evaluation criteria and submission analysis for all procurement needs.
13. Prior to awarding any procurement of goods and/or services, the user department will forward recommendations to the CAO for final review and comments.
14. No employee or elected official shall purchase or offer to purchase, on behalf of the Municipality, any goods and services, except in accordance with this Policy.
15. While adhering to the Municipal Freedom of Information and Protection of Privacy Act, data received during a purchasing process will normally be considered as public information, unless clearly and specifically identified as confidential information within an individual bid submission. Therefore, when bids are open in public limited information will be announced (usually the name of each bidder and their total bid price) and any further information will remain confidential until all bids have been analyzed and evaluated. Data will be provided to the public upon request on current year purchasing if easily available but no historical data on prior years will be researched for the public and/or other vendors.
16. Elected Officials shall not approve nor acquire any goods and services.
17. Any employee who intentionally and knowingly acquires or disposes of any goods and services for the Municipality in contravention of any section of this Policy, as amended from time to time, shall be subject to disciplinary actions in accordance with Municipal policies.
18. All petty cash purchases must exclude tendered goods and services.
19. No requirement for goods and services may be divided into two or more parts to avoid the provisions of this policy.
20. A Department Head shall not award a contract where the CAO has determined that the provisions of this policy have not been adhered to and has so advised the Department Head.
21. The CAO shall, in conjunction with the Department Head, reject all purchase requisitions for services where the services could result in the establishment of an employee-employer relationship.

22. No quotation or proposal will be accepted from any individual or company, which has instituted a claim or legal proceeding against the Corporation or against whom the Corporation has instituted a claim or legal proceeding with respect to any previous contract to supply goods or services, unless prior approval is received from Council.
23. Any withdrawal of bids will only be accepted if supplied in writing by the contractor and subject to any other provisions of the Policy.
24. That Schedules A-E (attached hereto) may be amended provided such amendments have been approved by the Council and the amended Schedule(s) has been circulated to affected staff.

SECTION IV
REQUIREMENT FOR APPROVED FUNDS

1. Departmental expenditures are authorized by Council each year as part of either the Operating or Capital Budget process. Pending Council's approval of proposed budgetary estimates, Department Heads are authorized to spend up to 50% of the previous year's approved Operating Budget. Department heads are not authorized to overrun departmental operating budgets, except in accordance with this Policy.
2. The exercise of authority to award a contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Council approved operating budget.
3. Where goods and services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a contract is subject to:
 - a. the identification and availability of sufficient funds in appropriate accounts for the current year within Council approved estimates, and
 - b. the requirement for the goods or services will continue to exist in subsequent years and, in the opinion of the Treasurer, the required funding can reasonably be expected to be made available, and

The CAO may reject all purchase requests for which sufficient funds are not available and identified. If the Department Head advises the CAO that the deficiency is minimal and alternative funding has been identified, the purchase request may proceed provided appropriate authorizations are met in accordance with this policy.

The Department Head will co-ordinate, with the CAO, all leasing requirements including term capitalization rate, lease vs. buy (or other) analysis, etc. The CAO will ensure that all lease commitments comply with Municipal Act 2001, as amended and regulations made there under.

4. Where this policy prescribes financial limits on contracts that may be awarded under the authority of a Department Head, or provides for financial limits on contracts required to be reported to Council, for the purpose of determining whether a contract falls within these prescribed limits, the contract amount shall be the sum of:
 - a. all costs to be paid to the supplier under the contract, excluding all taxes
 - b. less any rebates

5. APPROVAL OF PAYMENTS for ALL METHODS OF PURCHASING

Council has ultimate authority for all expenditures and delegates some of this authority by the approval of annual budgets and this Purchasing Policy. Formal approval of the annual budget constitutes financial approval to proceed with the purchases contained in the budget while following the processes outlined within this policy.

Following the appropriate method of purchasing outlined above, all invoices submitted to the Treasury Department for payment must be approved by the Department Head and/or his/her designates.

Standard recurring expenditures that are a part of normal, day-to-day business activities may be paid by the Treasury Staff. These types of expenses are regular and expected, budgeted for and are not optional. Late payment charges should be avoided and discounts taken when practical. Regular purchases include, but are not limited to, utilities, phone, postage, payroll remittances and licenses. Invoices pertaining to tenders and/or contracts previously awarded by Council may be processed with approval from the Department Head and/or CAO.

Department Heads and their designates approving invoices for payment will ensure the invoice's mathematical accuracy, correct unit costs and quantities and will affix their signature or recognizable initials on the invoice to indicate to the Treasury Staff that the invoice is approved for payment.

Only individuals identified with approved signing authority on the Township commercial bank accounts are authorized to open or close accounts with vendors or purchasing charge cards in the Township's name or to change credit limits.

Receipt of goods or services must be confirmed before payment is approved. All payments must be properly authorized, be accurately accounted for and be supported by appropriate documentation.

SECTION V
SPECIFICATIONS

1. The Department whose budget provides for the procurement of goods and services shall be responsible, in consultation with the CAO for the preparation and approval of all specifications and/or Terms of Reference (Scope of Work) to be used for the procurement of such goods and services.
2. Where practical, Specifications or Terms of Reference should be considered that are detailed but not brand specific to leave room for potential vendors to provide alternatives in the event an equal or better-proven product or method is available.
3. Vendors or potential vendors should not be requested to expend time, money or effort on design or in developing specifications or otherwise help define a requirement beyond the normal level of service expected from vendors.

When such services are required:

- a. the CAO shall be advised
- b. the contracted vendor will be considered as a consultant and unable to make an offer for the supply of the goods and services
- c. a fee shall be paid
- d. the detailed specification shall become the property of the municipality for use in obtaining competitive bids

SECTION VI
STANDARDIZATION

It will be the policy of the Township of South Dundas wherever possible, to standardize the procurement of goods and services to allow for:

1. reduced number of goods and services required
2. increased volume on common items or services
3. maximizing volume buying opportunities
4. providing economies of scale
5. reduced handling, training and storage costs
6. minimizing maintenance costs
7. co-operative purchasing activities
8. competitive bid results
9. reduced overall cost

SECTION VII
RESPONSIBILITIES AND AUTHORITIES

1. The Department Head has responsibility for procurement activities within their departments and is accountable for determining and achieving specific objectives as outlined for each procurement project.
2. Department Heads have the authority to award contracts in the circumstances specified in this policy provided that the delegated power is exercised within the limits prescribed in this policy, and the requirements of this policy are met.
3. The CAO is responsible for:
 - a. providing procurement advice and services to Department Heads,
 - b. monitoring compliance with this policy.
4. Department Heads, in consultation with Treasury staff, shall inform the CAO that non-compliance with this policy has occurred, then the CAO shall report to Council any non-compliance.
5. For awards of value \$20,000 or less:
 - a. the CAO shall approve all purchases provided that the issuing Department has approved a purchase requisition and the requirements of this policy are met
 - b. the Department Head shall execute all related agreements.
6. The CAO has the authority to instruct the Department Head not to award a contract and may direct staff to submit recommendations to Council for approval and may provide additional restrictions concerning procurement where such action is considered necessary and in the best interests of the Municipality.
7. The Municipal Clerk or Department Head is required to forward to the CAO, a copy of all legally executed contracts relating to the procurement of optional goods and services.

SECTION VIII
METHODS OF PROCUREMENT

Notwithstanding any other provisions of this Policy, the acquisition of the items listed in Appendix "A" do not fall under the guidelines of the Purchasing Policy and shall be subject to applicable Policies and Procedures established from time to time. Procurement by means of a lease agreement is also addressed separately in Schedule E.

1. **PROCUREMENT OF GOODS AND/OR SERVICES**

Where the required product or service can be specified, it shall be acquired in one of the following ways.

Where it is estimated that the value of the goods and services, inclusive of all delivery charges will cost:

a. **Less than \$2,000**

Comparison pricing and purchasing, if practical, will be done where random purchases of goods and services is contemplated. Random purchases will be approved by the Department Head or designate.

b. **\$2001 to \$5,000**

The initiating Department in consultation with the CAO, shall obtain three written, sealed quotations, where it is practical, and record on approved forms. The CAO and the Department Head or designate will approve the successful quotation. A record of all quotations shall be maintained.

Report to Council is necessary.

c. **\$5,000 to \$20,000**

The CAO, in consultation with the initiating Department Head, shall issue a Request for Quotation. A minimum of three written, sealed quotations (where possible) are to be received before the municipality commits to a Vendor. If only one quotation is received, the municipality may exercise its right to cancel the call for quotations. Quotations are not formally opened in public nor is it necessary to disclose prices or terms at the time of submission.

Report to Council is necessary.

d. **\$20,001 and over**

The CAO in consultation with the requisitioning Department Head shall issue a formal Tender for all approved projects based on defined requirements (specifications are available to readily compare products).

Tenders require a reply by a designated date and time, signed by a Corporate Officer, authorized to bind the Corporation. Any requested bid deposits, security or bonds must be included with the submission. Replies are delivered directly to the Clerk's Department and are opened at a public tender meeting. If only one tender is received, the municipality has the option of not opening the bid and closing the call for tender.

Each sealed bid received in response to a formal bid request is reviewed to determine whether a bid irregularity exists, action is taken according to the nature of the irregularity (see Appendix B).

A report initiated by the issuing Department Head and reviewed by the CAO shall be prepared for Council consideration and approval.

Upon Council's approval, the CAO shall ensure that a legally binding agreement is executed by the Mayor and Clerk.

The Department Head is responsible for maintaining current insurance certificates and WSIB certificates, as called for in the bid documents and any other required documents.

**2. REQUESTS FOR PROPOSALS
(INCLUDING THE ENGAGEMENT OF PROFESSIONAL AND CONSULTING SERVICES)**

This method of acquisition can be used for any dollar value and involves the solicitation of proposals when the requirements for goods and/or services cannot be definitely specified, the requirements of the municipality are best described in a general performance specification, and innovative solutions are sought. Depending on its terms, the process may involve negotiations subsequent to the submission of proposals on any or all of the specifications, contract terms, and prices. The CAO shall maintain a list of suggested evaluation criteria for assistance in formulating an evaluation scoring scheme using a standard Request for Proposal that includes factors such as qualification and experience, strategy, approach, methodology, scheduling, and past performance, facilities, and equipment. Department Heads shall identify appropriate criteria from the list but are not limited to the standard criteria from the list). Requests for Proposals are not formally opened in public nor is it necessary to disclose prices or terms at the time of submission. If only one proposal is received, the CAO, in consultation with the Department Head, has the option of not opening the bid and closing the call for proposal. (SEE APPENDIX C) Where the required goods or service cannot be specified and it is estimated that the value of the goods and services (excluding all taxes) cost:

- a. This process may be used for lesser values as approved by CAO;
 - b. \$5,001 and over
- written, sealed quotations shall be acquired/advertised through the Request for Proposal (RFP) process and evaluated on the basis of quantitative and qualitative criteria.

A report to Council is required from the department issuing the RFP for Council consideration and approval.

Upon Council's approval, a contract must be executed by the Mayor and Clerk.

**3. EXPRESSION OF INTEREST and/or
REQUEST FOR PRE-QUALIFICATION**

Used where bidders offer their interest in submitting a bid on a product or service.

Advertised publicly, and information is requested to determine reference checks, past performance, and financial liability. A reply to the Request for Expression of Interest and/or Pre-Qualification is required by a designated date and time to the Administration Department, signed by an Officer authorized to legally bind the Corporation.

Submissions are reviewed and subsequently a Request for Quotation or Tender is prepared for a short list to invited pre-qualified bidders.

METHODS OF PROCUREMENT – SUMMARY TEMPLATE

The following are authorized procedures for the procurement of goods, services, and construction, not available from pre-existing agreements.

METHOD OF PROCUREMENT	TYPE OF QUOTATION	SOURCE OF BIDS	TYPE OF CONTRACT	REPORTING STATUS
1. GOODS AND SERVICES				
a. under \$2000			direct acquisition	no report to Council required
b. \$2001 - 5,000	Written quotation required	Purchases made from the competitive marketplace where possible and practicable (3 written quotes where possible)		report to Council required
c. \$5,001 - 20,000	Written quotation required	3 written quotes to be obtained where possible		report to Council required
d. \$20,001 & over	Written quotation acquired by REQUEST FOR QUOTATION (RFQ)/TENDER (RFT)	Advertise in local and/or trade paper	Executed Contract	report to Council required
2. REQUESTS FOR PROPOSALS (INCLUDING THE ENGAGEMENT OF PROFESSIONAL AND CONSULTING SERVICES)				
a. under \$5,000	Written quotation acquired by Department Head			report to Council required
b. \$5,001 to \$20,000	Written quotations through REQUEST FOR PROPOSAL	Advertised in local and/or trade paper	agreement	report to Council required
c. over \$20,000	Written quotations through REQUEST FOR PROPOSAL	Advertised in local and/or trade paper	agreement	review by Solicitor (if deemed necessary) report to Council
3. EXPRESSION OF INTEREST and/or REQUEST FOR PRE-QUALIFICATION				
	Request for information only, followed by INVITATION TO BID or PREQUALIFIED TENDER.	Advertised in local and/or trade paper	no contract. Followed by further request	no report to Council required

4. EXCEPTIONS TO METHODS OF ACQUISITION

a. VOLATILE MARKET CONDITIONS

Notwithstanding the provisions of this policy, where market conditions are such that long term price protection cannot be obtained for goods and services, the Department Head will obtain competitive prices for short term commitments until such time as reasonable price protection and firm market pricing is restored.

b. SOLE SOURCE PROCUREMENT

Purchase by negotiation may be adopted, if in the judgment of the CAO and in consultation with the requisitioning Department Head any of the following conditions apply:

- (i)** goods and services are in short supply due to market conditions
- (ii)** the sources of supply are restricted to the extent that there is not effective price competition, or consideration of substitutes is precluded due to any of the following:
 - a.** components or replacement parts for which there is no substitute
 - b.** compatibility with an existing product, facility or service is required
 - c.** specific standards are adopted by Council
- (iii)** there is documented evidence that the extension or reinstatement of an existing contract would prove most cost effective or beneficial (to a maximum of 10% of the original contract).
- (iv)** work is required at a location where a contractor has already been secured through a tender process, with established unit prices by another party and it is considered to be beneficial and cost effective to extend the unit prices for the work to be completed for the municipality
- (v)** after the RFP process has closed, it may be necessary for discussion to clarify and/or make significant revision(s) to the initially defined requirements of the call for quotations/proposals
- (vi)** when only one bid/proposal is received through the procurement process and it is impractical to recall the requirements of the call for quotations/proposals

c. EMERGENCY PROCUREMENT

Notwithstanding the provisions of this policy, the following shall only apply in case of an emergency, when an event occurs that is determined by a Department Head or the CAO to be:

- a threat to public health
- the maintenance of essential municipal services
- the welfare of persons or of public property or
- the security of the municipalities interests and the occurrence requires the immediate delivery of goods or services and time does not permit for competitive bids

The above criteria are to be applied on the basis of:

Procurement under \$20,000:

Wherever feasible, the CAO, upon the recommendation of the Department Head, shall secure by the most open market procedure at the lowest obtainable price, any goods and services required.

Procurement Over \$20,000:

The Department Head shall obtain the prior approval of the CAO. An information report shall be submitted to Council explaining the actions taken and the reason(s) therefore.

d. CO-OPERATIVE OR JOINT VENTURES

The municipality may participate with other Government agencies or public authorities in co-operative procurement/acquisition ventures or utilize a 'piggy back clause' within public sector contracts, whenever it is determined to be in the best interest of the municipality to do so. This is subject to the Procedure Policy of the Purchasing Agent and subject to review of the Department Head from time to time.

Commented [h1]: this was added

e. UNSOLICITED PROPOSALS

Unsolicited proposals received by the municipality shall be reviewed by the Department Head and CAO. Any procurement activity resulting from the receipt of an unsolicited proposal shall comply with the provisions of this policy. A contract resulting from an unsolicited proposal shall be awarded on a non-competitive basis only when the procurement requirements comply with the non-competitive procurement policies and procedures.

f. APPROVAL OF PAYMENTS for ALL METHODS OF PURCHASING

Council has ultimate authority for all expenditures and delegates some of this authority by the approval of annual budgets and this Purchasing Policy. Formal approval of the annual budget constitutes financial approval to proceed with the purchases contained in the budget while following the processes outlined within this policy.

Following the appropriate method of purchasing outlined above, all invoices submitted to the Treasury Department for payment must be approved by the Department Head and/or his/her designates.

Standard recurring expenditures that are a part of normal, day-to-day business activities may be paid by the Treasury Staff. These types of expenses are regular and expected, budgeted for and are not optional. Late payment charges should be avoided and discounts taken when practical. Regular purchases include, but are not limited to, utilities, phone, postage, payroll remittances and licenses.

Invoices pertaining to tenders and/or contracts previously awarded by Council may be processed with approval from the Department Head and/or CAO.

Department Heads and their designates approving invoices for payment will ensure the invoice's mathematical accuracy, correct unit costs and quantities and will affix their signature or recognizable initials on the invoice to indicate to the Treasury Staff that the invoice is approved for payment.

Only individuals identified with approved signing authority on the Township commercial bank accounts are authorized to open or close accounts with vendors or purchasing charge cards in the Township's name or to change credit limits.

Receipt of goods or services must be confirmed before payment is approved. All payments must be properly authorized, be accurately accounted for and be supported by appropriate documentation.

SECTION IX **BID ANALYSIS**

The analysis of bid responses shall be as follows;

1. Tenders shall be tabulated and analyzed by the initiating department staff, and a recommendation forwarded to the CAO for review
2. Bid responses dealing with the lease, rental or purchase of physical assets shall be tabulated and analyzed by the initiating department staff, and a recommendation forwarded to the CAO for review
3. All other bid responses shall be tabulated and analyzed by the CAO in consultation with the initiating department staff.

SECTION X **REPORTING**

GOODS AND SERVICES, PROFESSIONAL AND CONSULTING SERVICES

1. Where the;
 - a. value of the goods and services is less than \$20,000, and
 - b. procedures defined by this policy have been followed, and
 - c. acquisition is within the approved departmental net budget amount, and

A report to Council is required and the Clerk shall arrange for a contract to be signed by the Corporate Signing Officer(s) if required.

2. Council approval is required where the:

- a. value of the goods and services is over \$20,000, or
- b. purchase is for vehicles or heavy equipment, or
- c. purchasing policy is being waived, or
- d. acquisition exceeds the approved capital budget amount , or
- e. there was no provision in the budget for the item, or
- f. CAO requests that a report be presented for Council consideration and approval

Based on the above criteria, a contract shall be executed by the Mayor and Clerk in accordance to the reporting guidelines in this policy.

3. All original contracts will be held by the Municipal Clerk with copies being sent to the issuing department.

SECTION XI
DISPOSAL OF SURPLUS GOODS

1. The Department Head shall obtain the approval of Council for the disposal and/or sale of surplus assets. Surplus goods shall be sold by sealed bid as determined by Council, sealed bids, auction or an appropriate method.

SECTION XII
CONFLICT OF INTEREST

All consultants (eg: architects, engineers, etc.) retained by the municipality shall disclose to the municipality prior to accepting an assignment, any potential conflict of interest. If such a conflict of interest does exist, the municipality as directed by the Department Head may, at its discretion, withhold the assignment from the consultant until the matter is resolved. And furthermore, if during the conduct of a municipal assignment, a consultant is retained by another client giving rise to a potential conflict of interest, then the consultant shall so inform the municipality.

Schedule "A"

GOODS AND SERVICES "EXEMPT" from PROVISIONS OF THE PROCUREMENT POLICIES

1. Petty Cash Items

2. Training and Education

- a) Registration and Tuition fees for conferences, conventions, courses and seminars
- b) Magazines, books and periodicals unless the purchase of such items are subject to value-added services
- c) memberships

3. Councillor/Employee Expenses

- a) Advances
- b) Meal allowances
- c) Travel & Hotel accommodation
- d) Entertainment
- e) Miscellaneous – Non-Travel

4. Employer's General Expenses

- a) Payroll deduction remittances
- b) Licences (vehicles, elevators, radios, etc.)
- c) Debenture payments
- d) Grants to agencies
- e) Damage Claims
- f) Tax remittances
- g) Charges to/from other Government or Crown Corporations
- h) Employee income

5. Professional and Special Services

- a) Committee fees
- b) Witness fees
- c) Legal fees and other professional services related to litigation or legal matters
- d) Honoraria
- e) Arbitrators
- f) Legal settlements
- g) Veterinary Expenses

6. **Utilities**

7. **Advertising Services** required by the Township on or in but not limited to radio, television, newspaper and magazines.

8. **Bailiff or Collection Agencies**

Schedule "B"
BID IRREGULARITIES

BID IRREGULARITY

A bid irregularity is a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response.

For the purposes of this policy, bid irregularities are further classified as "major irregularities" or "minor irregularities".

A "**major irregularity**" is a deviation from the bid request that affects the price, quality, quantity or delivery, and is material to the award. If the deviation is permitted, the bidder could gain an unfair advantage over competitors. The CAO must reject any bid, which contains a major irregularity.

A "**minor irregularity**" is a deviation from the bid request, which affects form, rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. If the deviation is permitted or corrected, the bidder would not gain an unfair advantage over competitors. The CAO may permit the bidder to correct a minor irregularity.

MATHEMATICAL ERRORS - RECTIFIED BY STAFF

The CAO will correct errors in mathematical extensions and/or taxes, and the unit prices will govern. The responsibility for correcting mathematical errors may be delegated to the requisitioning department.

ACTION TAKEN:

The CAO, and Department Head will be responsible for all action taken in dealing with bid irregularities, and acts in accordance with the nature of the irregularity:

- ✓ major irregularity (automatic rejection)
- ✓ minor irregularity (bidder may rectify)
- ✓ mathematical error (additions or extensions) as above

In the event that the vendor withdraws his bid due to the identification of a major irregularity, the municipality may disqualify such vendor from participating in municipal quotations/tenders/requests for proposals for a period of up to one year.

BID IRREGULARITIES - SUMMARY

ITEM	DESCRIPTION	MAJOR	MINOR	ACTION
1.	Late bids (by any amount of time)	X		automatic rejection
2.	Bids completed and/or signed in erasable medium	X		automatic rejection
3.	Bid surety not submitted with the bid when the bid request (or any addenda) indicated that such surety is required	X		automatic rejection
4.	EXECUTION OF AGREEMENT TO BOND: a. Bond company corporate seal or equivalent proof of authority to bind company or signature missing b. surety company not licensed to do business in Ontario	X		automatic rejection
5.	EXECUTION OF BID BONDS: a. corporate seal or equivalent proof of authority to bind company or signature of the BIDDER or both missing b. corporate seal or equivalent proof of authority to bind company or signature of BONDING COMPANY missing	X		automatic rejection
6.	OTHER BID SECURITY: Cheque which has not been certified	X		automatic rejection
7.	Bidders not attending mandatory site meeting	X		automatic rejection
8.	Unsealed tender envelopes	X		automatic rejection
9.	Proper response envelope or label not used		X	acceptable if officially received on time
10.	Pricing or signature pages missing	X		automatic rejection
11.	Insufficient financial security (i.e.: no deposit or bid bond or insufficient deposit)	X or	X	where security is required & amount is not specified in request, automatic rejection unless insufficiency is <u>deminimus</u> (trivial or insignificant) -where security is required and amount of security is specified in request, automatic rejection
12.	Bid received on documents other than those provided in request	X		not acceptable unless specified otherwise in the request
13.	EXECUTION OF BID DOCUMENT proof of authority to bind is missing	X		automatic rejection
14.	Part bids (all items not bid)	X or	X	acceptable unless complete bid has been specified in the request
15.	Bids containing minor clerical errors		X	2 working days to correct initial errors. Municipality reserves the right to waive initialling and accept bid
16.	Uninitialed changes to the request documents which are minor (i.e.; the bidder's address is amended by overwriting but not initialled)		X	2 working days to correct initial errors. Municipality reserves the right to waive initialling and accept bid
17.	Alternate items bid in whole or in part		X	available for further consideration unless specified otherwise in request

18.	Unit prices in the schedule of prices have been changed but not initialled		X	2 working days to correct initial errors. Municipality reserves the right to waive initialling and accept bid
19.	Other mathematical errors which are not consistent with the unit prices		X	2 working days to initial corrections. Unit prices will govern.
20.	Pages requiring completion of information by vendor are missing	X		automatic rejection
21.	Bid documents which suggest that the bidder has made a major mistake in calculations or bid		X	consultation with a Solicitor on a case-by-case basis and referenced within the staff report if applicable

NOTE: The above list of irregularities should not be considered all-inclusive. The CAO, in consultation with the requisitioning department will review minor irregularities not listed. The CAO may then accept the bid, or request that the bidder rectify the deviation.

Schedule "C"
TENDER PROCESS

Tenders will be called for all work, equipment, and materials with a value exceeding \$20,000 by way of public advertising or invitational bid, as outlined in the Municipal Purchasing Policy.

The Department Head will send a draft advertisement and tender documents to the CAO for review, providing the following information:

- ✓ dollar value
- ✓ description of work
- ✓ closing date

The CAO will assign a number from the Tender Registry and provides assistance with documents, if required.

The Department Head will forward plans and specifications to the CAO, at least one day before the ad appears.

The Clerk will advertise and distribute tenders:

- all public tenders are advertised on the Municipal Website. Additionally, tenders may be advertised in a local, regional, and/or construction newspaper (2 days lead time required) or any other method as deemed appropriate.
- In some instances the contract may be advertised to pre-qualify potential bidders. Pre-qualification of bidders includes the screening of potential vendors in which such factors as financial capability, reputation, qualified staff and equipment management and product quality are considered. After evaluation of responses, only those contractors who are "pre-qualified" are allowed to submit tenders

Advertisements must include the following information (if applicable): site meeting time/date/location, contacts names for technical and purchasing inquiries, document fee (if applicable), and location for pick up and drop off of bid documents.

The closing date is a minimum of 15 calendar days after date of issue. However, a tender may be closed in a shorter or longer period of time depending on the urgency or complexity of the item(s) being tendered.

Advertised tender packages are available from the Clerks Department of the Township of South Dundas and any other locations as designated by the Clerk. The tender fee (if applicable) is paid to Treasury and information is recorded from bidders as documents are picked up. A copy is available for viewing prior to purchase. All tender submissions must be addressed to the Municipal Clerk, Township of South Dundas and returned in the envelope, if applicable, provided with the tender package.

The Clerks Department will receive all sealed tender submissions and issue a date and time-stamped receipt.

The Clerks Department will refuse to accept any tender submission that is

- ✓ not sealed
- ✓ received after the closing deadline
- ✓ submitted after a tender has been cancelled
- ✓ received via facsimile or electronic mail

Requests for withdrawal of a tender shall be allowed if the request is made before the closing time for the contract to which it applies. Requests must be directed to the Municipal Clerk by letter or in person, by a Senior Official of the company, with a signed withdrawal confirming the details. Telephone requests will not be considered. The withdrawal of a tender does not disqualify a bidder from submitting another tender on the same contract.

Tenders close at 12:00 noon on the appointed day, and are opened publicly at 12:10 p.m. (unless otherwise specified in the tender documents).

Each tender is reviewed to determine whether a bid irregularity exists, and action is taken according to the nature of the irregularity (see Appendix B).

Tenders are tabulated and evaluated by the using department.

A report initiated by the issuing Department Head and reviewed by the CAO shall be prepared for Council consideration and approval.

Following Council's approval, the Department Head shall supply a contract which legally binds the Corporation for execution by the Mayor and Clerk.

Tender results shall be made public by the CAO.

Schedule "D"
REQUEST FOR PROPOSAL PROCESS

REQUESTS FOR PROPOSALS (RFP's) may be called instead of tenders, by way of public advertising or invitational bid, as outlined in the Municipal Purchasing Policy:

- ✓ when requirements or services cannot be definitively specified, or
- ✓ when the requirements or services are non standard or specialized in nature, or
- ✓ the cost is only a minor component making up the award.

RFP's with a value over \$5,000 must be assigned an RFP number from the Registry maintained by the CAO. The following information must be provided:

- ✓ approximate dollar value
- ✓ description of work
- ✓ closing date

The User Department will initiate the RFP process by preparing documents, with input and assistance from the CAO if required.

Prior to printing, documents must be submitted to the CAO for review to ensure that all provisions other than specifications have been included in the proper format.

The Clerk will advertise and distribute RFP packages.

All public RFP's are advertised on the Municipal Website. Additionally, at the discretion of the Department Head, RFP's may be advertised in a local, regional, and/or construction newspaper (2 days lead time required). Advertisements must include the following information (if applicable): site meeting time/date/location, contacts names for technical and purchasing inquiries, document fee (if applicable), and location for pick up and drop off of bid documents.

The closing date is a minimum of 15 calendar days after date of issue. However, an RFP may be closed in a shorter or longer period of time depending on the urgency or complexity of the item(s).

Public Request for Proposal document packages are available from the Clerks Department, 4296 County Rd. 31, Williamsburg ON K0C 2H0

RFP's must be addressed to the Clerk. The Clerks Department will receive all sealed submissions and issue a date and time-stamped receipt, if requested.

The municipality will refuse to accept any submission that is

- ✓ not sealed
- ✓ received after the closing deadline
- ✓ submitted after an RFP has been cancelled.

Requests for withdrawal of an RFP shall be allowed if the request is made before the closing time for the contract to which it applies. Requests must be directed the Municipal Clerk by letter, or in person by a Senior Official of the company, with a signed withdrawal confirming the details. Telephone requests will not be considered but a signed facsimile will be. The withdrawal of an RFP does not disqualify a bidder from submitting another RFP on the same contract.

Proposals shall be opened at 12:00 noon on the appointed day for registration of bids or at such time as may be set out in the RFP. Only names of bidders will be made public.

Proposals received shall be evaluated on the basis of quantitative and qualitative criteria by an Evaluation Committee.

RFP's with an anticipated value over \$20,000 require the CAO's review prior to issuance, and a report from the department to Council for consideration and approval prior to the award. Following Council's approval, a contract must be executed by the Mayor and Clerk.

Once an award is made by Council, the report recommending an award shall be a matter of public record.

Schedule "E"

LEASES

Leases are to be negotiated by the Chief Administrative Officer and the Department Head. The recommendation will be forwarded to Council for approval. As a general principle, lease shall be considered when the following conditions are applicable:

When the expenditure of the goods or services is less than the purchase of goods and services.

The residual payment on the lease is negligible or justification can be made to accept a residual payment that is higher.

Leases will be treated in the same manner as purchase, based upon the retail value of the lease payment, (e.g. a \$25,000 vehicle will be purchased through the tender process, even though the annual payment is less than the amount required to go tender.)

At the expiration of a lease, a replacement goods or product be re-quoted or re-tendered. Automatic "roll-over" of a lease payment into a new product must be authorized by Council as appropriate.

The report to Council recommending the entering into a lease agreement will require the Chief Administrative Officer to include the following information:

- Value of product or service if being purchased
- Length of the lease
- Monthly and annual lease payments
- Residual Amount
- Interest
- Impact on debt limitations

Once a lease has been negotiated and approved, a copy of the lease and documents must be forwarded to the Treasurer.