

The Corporation of the Municipality of Meaford

By-law Number 2021-56

Being a by-law to Purchasing of Goods, Services & Construction Policy

Whereas, Section 5 (3) of the Municipal Act, S.O. 2001, c.25 provides that municipal power shall be exercised by by-law; and

Whereas, Section 224 of the Municipal Act, 2001, S.O. 2001, c.25 states the role of Council includes ensuring that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of Council; and

Whereas, Section 270 of the Municipal Act, 2001, S.O. 2001, c.25 provides that municipalities shall establish a policy regarding the procurement of goods and services; and

Whereas, the Council of the Municipality of Meaford deems it expedient and necessary to adopt a Purchasing of Goods, Services & Construction Policy.

The Council of the Corporation of the Municipality of Meaford enacts as follows:

1. That the Purchasing of Goods, Services & Construction Policy, attached hereto as Schedule A and forming part of this by-law, is hereby established and adopted
2. That by-law 2019-40 is hereby repealed.
3. That this by-law shall come into force and take effect upon being passed by Council.

Read a first, second and third time and finally passed this 26th day of July, 2021.

Barb Clumpus, Mayor

Matthew Smith, Clerk



Municipality of Meaford Corporate Policy

Policy: Purchasing of Goods, Services and Construction

Department: Corporate Services

Last Revision: July 2021

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Policy Statement

The provision of a Purchasing Policy as specified by Section 270 of the *Municipal Act, 2001* requires that municipalities shall adopt and maintain policies with respect to the procurement of goods, services and construction with integrity, fairness, equality and transparency through efficient means that produce the appropriate overall cost for the taxpayer.

Purpose

All Municipal departments and Municipal officials shall acquire Goods, Services and Construction in accordance with this Policy and not otherwise. No member of Council or Municipal employee shall have the right to acquire Goods, Services and Construction or to otherwise bind the Municipality in



respect of the acquisition of Goods, Services and Construction, except in accordance with this Policy.

This Policy shall apply to the acquisition of all Goods, Services and Construction by the Municipality, except for the exemptions identified within this Policy.

The rules contained within shall not apply where the supply of funds, approval of borrowing, or the provision of other financial assistance is mandated by statute.

Definitions

“Award” means notification to a bidder of acceptance of a bid which brings a contract into existence. This contract will provide authorization to proceed with the Purchase, Sale, or Disposal of Goods, Services and/or Construction from or to that supplier.

“Best Value” means the optimal balance of performance and cost determined in accordance with pre-defined evaluation criteria.

“Bid” means an offer or submission from a Supplier in response to a Bid Solicitation which is subject to acceptances or rejections by the Corporation.

“Bid Deposit” means the form of security required by the terms and conditions of Bid Solicitations to guarantee that the successful Supplier enters into a Contract with the Corporation.

“Bid Solicitation” means a formal request for Bids, including Informal Quotation, Request for Quotation, Request for Pre-Qualification, Request for Tender, Request for Proposal, Request for Expression of Interest, or Request for Information.

“Bidder” means one who submits a response to an invitation to bid as issued by the Municipality.

“Budget” means the budget or portion of the budget approved by Council for the procurement of the goods, services or construction.

“Business Premises” means the business location from which the Goods, Services or Construction shall be supplied.



“CAO” means the Chief Administrative Officer of the Municipality or Designate.

“Clerk” means the Clerk / Director, Legislative and Protective Services of the Municipality or Designate.

“Compliant Bid” means a Bid that meets the terms and conditions of the Bid Solicitation and this Policy.

“Construction” means the construction, reconstruction, demolition, repair, rehabilitation, or renovation of a building, structure, or other engineering or architectural works and includes site preparation, excavation, drilling, soil, or seismic investigation, the supply of products and materials and the supply of equipment and machinery incidental to the construction, and the installation and repairs of fixtures of a building, structure, or other engineering or architectural work. It does not apply to routine maintenance, repair or operations of existing real property.

“Consulting Services” means the provision of expertise or strategic advice that is presented for consideration and decision-making, and includes services provided by architects, engineers, designers, surveyors, geo-technical consultants, planners and technology consultants.

“Contract” includes the purchase of goods, services or construction by, or on behalf of, the Municipality and the execution of purchase orders, written agreements and formal contracts as required.

“Cooperative Purchasing” means a variety of arrangements whereby two or more public procurement entities combine their requirements in a single procurement process to obtain advantages of volume purchases from the same supplier(s) or contractor(s).

“Corporation” means The Corporation of the Municipality of Meaford.

“Council” means the elected Municipal Council of the Municipality of Meaford.

“Department Head” means the head of a specific department being a Director or Designate.

“Designate” means the person or persons assigned the duties and responsibilities on behalf of, in the absence of, or incapacity of the person charged with the principal authority to take the relevant action or decision.



“Disposal” means the selling, trading, assignment and/or scrapping of Surplus Assets.

“Evaluation Committee” means the committee established to review bid documents and make recommendations of award

“Goods” includes but is not limited to goods, supplies, wares, merchandise, materials and equipment used or required by the Municipality.

“In-House Bid” means a process that allows for internal municipal departments to compete with external entities for the provision of Goods, Services or Construction.

“Lobbying” means the advocacy of an interest that is affected, actually or potentially by the Bid Solicitation process or individuals involved in the Bid Solicitation process including seeking to influence the outcome of the Bid Solicitation process or subsequent Award.

“Mayor” means the Mayor of the Municipality or Designate.

“Municipality” means the Corporation of the Municipality of Meaford.

“Negotiation” means a purchasing method whereby the Corporation may negotiate directly with one or more Suppliers with the intent to award a Contract or extend an existing Contract.

“Prequalification Process” means a solicitation process in which detailed written submissions describing attributes such as experience, financial strength, education or background, or other pertinent considerations are solicited in a Request for Prequalification.

“Proposal” means a document submitted by a Proponent in response to a Request for Proposal, to be used as the basis for negotiation or for entering into a contract.

“Purchase” means:

- a) Purchasing, renting, leasing or otherwise acquiring any goods, services or construction; includes all functions that pertain to the acquisition, including the description of requirements, preparation, solicitation, selection and award of contract and all phases of contract administration.

- b) The combined functions of purchasing, inventory control, traffic and transportation, receiving, inspection, storekeeping, salvage and disposal operations.

“Purchase Order” means a standard form document used by the Municipality to formalize a purchasing transaction with a supplier of Goods, Services or Construction.

“Purchasing” means the process for obtaining Goods, Services or Construction.

“Purchasing Agent” means the municipal representative who is responsible for the implementation of Municipality’s centralized procurement function and is hereby authorized to act as an agent in all such matters under the authority of this Policy

“Purchasing Card” means a credit card provided by the Municipality to duly authorized employees of the Municipality for use as a payment method to purchase goods or services directly from suppliers where permitted and in accordance with a written card holder agreement.

“Request for Expressions of Interest (REOI)” means a competitive procurement process that 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, services or construction. Requests for Expression of Interest may or may not result in the development of a list of available suppliers.

“Request for Information (RFI)” means a competitive procurement process for obtaining information or specifications, in advance of a formal bid process, to develop a more definitive set of terms and conditions, scope of work/service and the selection of qualified vendors. Requests for Information may or may not result in a formal bid process.

“Request for Pre-Qualification (RFPQ)” means a competitive procurement process for determining whether the qualifications of a bidder, as required by the Municipality, are at a level that will allow participation in a subsequent bidding opportunity that takes place as a direct result of the RFPQ.

“Request for Proposals (RFP)” means a competitive procurement process for obtaining unique proposals designed to meet specified terms of reference. As price is usually not the primary evaluation factor, an RFP may provide for negotiation of all terms, including price, prior to contract award. An RFP may include the provision for the negotiation of best and final offers and may be a single step or multi-step process, as per the thresholds stated of the by-law (excluding taxes).

“Request for Quotations (RFQ)” means a competitive procurement process for obtaining bids based on defined requirements for which a fixed or calculated price will be paid.

“Request for Tenders (RFT)” means a competitive procurement process for obtaining defined requirements for which a clear or single solution exists, with the objective of accepting the lowest priced responsive bid from a Responsible Bidder as per the thresholds stated in the by-law (excluding taxes).

“Responsible Bidder” means a bidder who is deemed to be fully technically and financially capable of supplying the Goods, Services or Construction requested in the solicitation.

“Responsive Bidder” means a bidder who has complied in all material respects and whose response meets all of the significant requirements as outlined in the solicitation.

“Roster” means a list of prequalified vendors, acquired through a competitive process, to be placed on a list where they will be provided an equal opportunity to perform work for the Municipality as it becomes available on a rotational or best fit basis.

“Services” may include, but are not limited to telephone, gas, water, hydro, janitorial and cleaning service, consultant services, legal surveys, medical services, insurance, training, and the rental, installation, inspection, repair or maintenance of equipment, machinery or other personal property.

“Senior Management Team” may include, but is not limited to, the Municipality’s leadership team containing the CAO and Department Heads of the various Municipal Departments.



“Signing Authority” refers to the maximum monetary amount, as approved by the Director of Financial Services from time to time, to which officers and employees are authorized to approve purchases of Goods, Services or Construction.

“Single Sourcing” means a procurement decision whereby the purchasing of Goods and Services or Construction are directed towards a particular vendor without solicitation of bids from other vendors because of standardization, warranty, or other factors.

“Sole Sourcing” means the purchasing of Goods, Services or Construction that are unique to a particular vendor and cannot be obtained from another source.

“Solicitation” means any and all forms of solicitation for Goods, Services or Construction by the Municipality, including but not limited to requests for tenders, quotations, proposals, prequalification, information and expressions of interest.

“Supplier” means any individual or organization providing goods, services or construction to the Municipality including but not limited to contractors, consultants, vendors, service organizations, etc.

“Treasurer” means the Municipality’s Treasurer/Director of Corporate Services or Designate.

“Two Envelope Method” means a procurement process in which a submission is submitted in two separate envelopes. The technical and qualitative information is submitted in the first envelope and the pricing information is provided in the second envelope which is only opened if the bidder is qualified by the first envelope.

“Two File Method” means a procurement process in which a submission is submitted in two separate PDF files. The technical and qualitative information is submitted in the first PDF file and the pricing information is provided in the second PDF file which is only opened if the bidder is qualified by the first PDF file.

“Vendor” means a seller or supplier of Goods, Services or Construction.

Policy Requirements

Purchasing Services

The Purchasing Agent shall have charge of and be responsible for the purchase of all Goods, Services or Construction by the Municipality, except as otherwise provided in this Policy.

The Treasurer 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, services or construction in compliance with this policy.

The Treasurer and Purchasing Agent will administer this policy.

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

The Treasurer is required as part of the organization's internal controls to check, review and report any irregularities in the purchasing process and the associated risk.

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

Delegation

Where authority is given to the Chief Administrative Officer (CAO), Department Head, or any other position pursuant to this policy, such authority may be delegated to subordinate staff on such terms as the CAO, applicable Department Head, or other position, as the case may be, shall consider reasonable in the circumstances.

Division of Contracts

No officer or employee of the Municipality shall divide the purchasing of Goods, Services or Construction in order to avoid the requirements of this Policy.



Signing Authorities

Signing authorities are approved by the Treasurer, and based on the following guidelines and apply to Purchase Orders, requisitions and cheque requisitions, provided such purchases are made in accordance with this Policy:

| Signing Authorities | |
|----------------------------|---|
| CAO | \$149,999.99 |
| Department Head | \$99,999.99 |
| Department Managers | Up to \$49,999.99, as determined by Department Head |
| Department Supervisors | Up to \$19,999.99, as determined by Department Head |
| Department Staff | Up to \$4,999.99, as determined by Department Head |

Purchasing Processes, Limits, and Authority to Award

The following processes shall be applied for the procurement and award of Goods, Services, and Construction, not available from pre-existing agreements:



| Method of Procurement | Type of Quotation | Source of Bids | Type of Contract | Authority To Award | Reporting Status |
|--|---|---|---------------------------------|--|-----------------------------|
| Purchase of Goods, Services and Construction Less Than \$25,000 (As Per Delegation of Authority By-Law) | | | | | |
| Up to \$4,999.99 | Open market process | Direct Source, Websites, Price Lists, etc. | Direct Purchase | Authorized User Department Staff | NO report to Council |
| More than \$5,000.00 and not more than \$19,999.99 | Informal Request for Quotation | At minimum, 3 quotes to be obtained, where possible | Purchase Order | Authorized User Department Staff & Treasurer | NO report to Council |
| Purchase Of Goods, Service and Construction Greater than \$25,000 (As Per Delegation Of Authority By-Law) | | | | | |
| More than \$20,000.00 and not more than \$49,999.99 | Request for Quotation OR Tender OR Requests for Proposals | Municipal Bid Hosting Service | Purchase Order and/or Agreement | Authorized User Department Staff & Treasurer | Quarterly Report to Council |
| More than \$50,000.00 and not more than \$99,999.99 | Tender OR Request for Proposals | Municipal Bid Hosting Service | Purchase Order and/or Agreement | User Department Head & Treasurer | Quarterly Report to Council |
| More than \$100,000.00 and not more than \$149,999.99 | Tender OR Requests for Proposals | Municipal Bid Hosting Service | Purchase Order and/or Agreement | CAO & Treasurer | Quarterly Report to Council |



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|--|----------------------------------|-------------------------------|---------------------------------|---------|---|
| More than \$150,000.00 | Tender OR Requests for Proposals | Municipal Bid Hosting Service | Purchase Order and/or Agreement | Council | Adopted Resolution from Report to Council |
| Multi-year contracts over \$150,000.00 total | Tender OR Requests for Proposals | Municipal Bid Hosting Service | Purchase Order and/or Agreement | Council | Adopted Resolution from Report to Council |

Requests for Pre-Qualification, Requests for Information, and Requests for Expressions of Interest will be utilized at the discretion of the Department Head and the Purchasing Agent as these procurement strategies do not guarantee the implementation of a formal bid process.

Council Approval Required

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

- a) Any contract requiring approval from the Ontario Municipal Board;
- b) Any acquisition of goods, services or construction 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;
- c) Where the net revenue amount proposed for acceptance is lower than the Council approved budget; and
- d) Any contract where the award is not being recommended to the lowest bidder or in the case of RFP’s to the highest scoring Proponent.

Council Approval Above \$150,000

If a Bid Result with a budget over \$150,000 is within the annual approved budget amount, these projects will be taken directly to council for project approval.

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, The Department Head and Treasurer shall have the authority to reallocate funds, without exceeding the aggregate budget within their control, under the following conditions:

Operating Budget

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

Capital Budget

- a) The shortfall cannot exceed 20% of the project budget to a maximum of \$25,000;
- b) General scope of work or service delivery method cannot be changed;
- c) 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;
- d) 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.

Processes for Special Situations

Emergency Purchases

Emergency Purchases More Than \$25,000

When a situation, or the threat of an impending situation, occurs, that is determined by the CAO to be a threat to public health, the maintenance of essential Municipal services, the welfare of persons, or of public property,

the protection of the Municipality's physical assets, or the security of the Municipality's interest or financial liabilities arising from unexpected conditions, and the occurrence requires the immediate delivery of Goods, Services and Construction and time does not permit the CAO to allow the Manager to acquire such Goods, Services and Construction, the CAO may make such purchases or authorize the making of such purchases without the involvement of the Purchasing Agent or the process set out in the Policy, and the CAO is authorized to do so in the most expedient and economical means possible. Emergency purchases more than \$25,000 will be communicated to Council as per the requirements of the Delegated Authority By-Law.

Emergency Purchases Less Than \$25,000

When a situation, or the threat of an impending situation, occurs, that is determined by the Department Head to be a threat to public health, the maintenance of essential Municipal services, the welfare of persons, or of public property, the protection of the Municipality's physical assets, or the security of the Municipality's interest or financial liabilities arising from unexpected conditions, and the occurrence requires the immediate delivery of Goods, Services and Construction and time does not permit the Department Head to allow the Purchasing Agent to acquire such Goods, Services and Construction, the Department Head may make such purchases or authorize the making of such purchases without the involvement of the Purchasing Agent or the process set out in the Policy, and the Department Head is authorized to do so in the most expedient and economical means possible. Emergency purchases less than \$25,000 will be communicated to the Purchasing Agent and Treasurer through a Purchase Order requisition within two (2) business day of the emergency purchase.

Sole 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, services or construction. Sole sourcing will be permitted if one or more of the following circumstances apply:

- One supplier/contractor possessing the unique ability or capability to meet the requirements of the Corporation due to a patent, sales/distributor agreement or copyright.

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

When sole source purchases are deemed necessary they shall be solicited by the user department with the bid solicitation method approved by the Purchasing Agent subject to the conditions of this Policy. Sole source contracts shall be awarded in accordance with this Policy.

Single Sourcing

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:

- disclosure of information in an open contract competition would breach some duty of confidentiality or compromise security.
- the compatibility of a purchase with existing equipment, product standards, facilities or service is a paramount consideration.
- there is an absence of competition for technical reasons and the Goods Services and/or Construction can only be supplied by a particular Supplier.
- the corporation has a rental contract with a purchase option and such purchase option is beneficial to the Corporation.
- for matters involving security, police matters, or confidential issues, in which case a purchase may be made in a manner that protects the confidentiality of the Supplier or Corporation.
- a roster for Professional/Technical Services has been developed in accordance with the Purchasing By-Law.
- when competitive procurement may be found to be impractical.

- where a good is purchased for testing or trial use and there is a clearly established deadline for testing or trial period that does not exceed 12 months.
- where construction materials are to be purchased at the source and it can be demonstrated that transportation costs or technical considerations impose geographic limits on the available supply base, specifically in the case of sand, stone, gravel, and/or asphalt for use in the construction or repair of roads.
- when an urgent procurement is necessary for fulfilling a statutory order issued by a federal or provincial authority (i.e. compliance order)

When single source purchases are deemed necessary they shall be solicited by the user department with the bid solicitation method approved by the Purchasing Agent subject to the conditions of this Policy. Single source contracts shall be awarded in accordance with this Policy.

Negotiation

The Department Head of the user department or Purchasing Agent may under any one of the following conditions negotiate with a supplier:

- a) When there is a Sole Sourcing situation as identified above;
- b) When there is a Single Sourcing situation as identified above;
- c) When there is a business to extend a contract beyond its initial term, such as when additional work is required that pertains to a current or recently completed project;
- d) During negotiations of annual renewals within a contract period;
- e) There are no bids in response to a Bid Solicitation.
- f) When all bids received fail to meet the specifications or terms and conditions, and it is deemed impractical to recall bid solicitations;
- g) When the lowest Responsive and Responsible bid received substantially exceeds the budgeted amount for Goods, Services and Construction, or is excessive in total cost as compared to the Goods, Services and Construction to be delivered, the municipality has the ability to enter into negotiations with the lowest compliant bidder, with the right to proceed to the next lowest compliant bidder, should a negotiated price not be reached with the lowest compliant bidder;
- h) When the nature of the assignment is confidential and disclosure to several bidders is inappropriate, provided that the Municipality is in

compliance with the *Municipal Freedom of Information and Protection of Privacy Act* in respect of any such negotiations;

- i) When negotiating to improve revenue returns for advertising on Municipal property;
- j) When negotiating any rebates based upon annual purchase value with suppliers;
- k) When negotiating improved discounts for quick payment of invoices;
- l) When suggesting any alternative products, offering equal or higher performance at lower costs;
- m) When negotiating better warranties; or
- n) When negotiating no-charge extras.

When negotiations are deemed necessary they shall be carried out jointly in co-operation with the user department and Purchasing Agent subject to the conditions of this Policy. Negotiated contracts shall be awarded in accordance with this Policy.

Purchase of Used Equipment / Assets

Upon written approval from the Treasurer, user departments are authorized to purchase used equipment or assets, up to a maximum of their delegated spending limit, that is sold by other municipalities by private sale or public auction; sold through a vendor license to sell used equipment; by sealed bid; or by negotiation providing that the equipment meets or exceeds the corporate equipment/asset requirements and it is documented that it is fiscally responsible to purchase a used piece of equipment, rather than purchase new.

Rosters

A 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 Municipality as it becomes available on a rotational or best fit basis. Rosters can only be utilized where budget is predetermined for either maintenance or capital projects.

When services are required the appropriate roster is utilized by the user department to select the service provider. Purchases awarded to a vendor on the roster shall be awarded in accordance with this Policy and the terms of the bid solicitation.

Co-Operative Purchasing

The Purchasing Agent is 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 confirming that the host agency has solicited bids from the open market to obtain competitive pricing. Co-operative purchases shall be awarded in accordance with this Policy.

Specifications

The establishment of bid solicitation specifications shall be as follows:

- a) Each user Department shall be responsible for the preparation of plans and specifications with the support of outside professional assistance as deemed necessary.
- b) Staff may use the appropriate procurement method for the acquisition of goods, services and construction prior to the adoption of the annual operating or capital budget by Council for the following year, and before the receipt of necessary approvals from other federal, provincial or municipal agencies, provided the procurement documents specifically state that the Award is subject to receipt of such approvals.
- c) In order to contribute to waste reduction and increase the development and awareness of environmentally sound purchasing, acquisition of Goods, Services and Construction will ensure that, wherever possible, specifications are amended to provide for expanded use of durable products, reusable products, and products that contain the maximum level of post-consumer waste and/or recyclable content, without significantly affecting the intended use of the product or service. It is recognized that cost analysis is required in order to ensure that the products are made available at competitive prices.
- d) Suppliers or potential suppliers 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 Suppliers. Where such services are required,
 - i. the Purchasing Agents shall be advised;



- ii. a fee shall be paid, the amount of which shall be determined and agreed upon by the supplier before the service commences; and
- iii. the detailed specifications shall become the property of the Municipality and can be used in obtaining competitive bids; and
- iv. the contracted supplier will be considered a consultant and will not be allowed to make an offer for the supply of the Goods, Services and Construction.

Construction Contracts

For E-Bidding Submissions:

For all construction projects estimated to exceed \$100,000 a Tender Security of a minimum of 5% of the contract value in the form of a Digital Bid Bond or Scanned-In Bid Bond in PDF Format is required along with the required Financial Securities and Insurance requirements.

For Hard Copy Submissions:

For all construction projects estimated to exceed \$100,000 a Tender Security of a minimum of 5% of the contract value in the form of a bank draft, bid bond, certified cheque, or money order made payable to the Municipality, is required along with the required Financial Securities and Insurance requirements.

The Ontario Provincial Standards Specifications or applicable Canadian Construction Documents Committee, General Conditions of Contracts are adopted as the Municipality's General Terms and Conditions for Construction Contracts.

Financial Securities Bonding/Bid Security

The Municipality may require that a Bid be accompanied by a

- a) a Performance Bond to guarantee the performance of the Contract;
- b) a Labour and Materials Bond to guarantee the payment for labour and materials to be supplied in connection with a Contract; and/or
- c) such further security as the Municipality deems appropriate in the circumstances.

Insurance

The appropriate insurance coverage shall be determined by the Purchasing Agent in consultation with the user department and based on the recommendations of the Municipality's insurer, maintaining an adequate amount of protection to the Municipality.

The type of insurance required will be relevant to the goods, services or construction being purchased and may include but are not limited to:

- Commercial General Liability
- Automobile Liability
- Contractor's Pollution or Environmental Liability
- Professional Errors and Omission Liability
- Builder's Risk

All bid solicitations must indicate the insurance requirements to be provided by the successful bidder.

Prior to execution of the contract, or where deemed appropriate by the Municipality's insurer or Purchasing Agent, evidence of satisfactory insurance coverage must be obtained from the bidder's insurance agent or broker, ensuring indemnification of the Municipality of Meaford and when appropriate other agencies (i.e. the Province of Ontario, the County of Grey) from any and all claims, demands, losses, costs or damages resulting from the performance of a Supplier's obligation under Contract.

The successful bidder is required to keep in force the required insurance requirements throughout the course of the project and will not allow the coverage to lapse, or change, without giving thirty days' notice to the Municipality.

Failure to comply with the terms and conditions of a Bid Solicitation, including failure to provide proof of insurance as required, shall be just cause for the cancellation of the Award.

Workplace Safety Insurance Board

The successful bidder is required to supply the Municipality appropriate Workplace Safety Insurance Board (WSIB) clearance prior to the commencement of any works or in the absence of WSIB a supplier must provide proof of independent operator status from WSIB that they are



exempt, along with evidence of insurance coverage they may carry, in lieu of WSIB.

Failure to comply with the terms and conditions of a Bid Solicitation, including failure to provide proof of WSIB coverage as required, shall be just cause for the cancellation of the Award.

Legal Claims

No bid or offer will be accepted from any bidder, inclusive of the bidder's subcontractors, who has a claim or has instituted a legal proceeding against the Municipality, or against whom the Municipality has a claim or instituted a legal proceeding, without prior approval of Council. For purposes of this provision, where such bidder is a corporation, bidder shall include any non-arm's length corporation of the bidder.

Contract Award and Execution

The Purchasing Agent, following the approval of the contract, shall notify the successful Bidder in writing.

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 Purchasing Agent or designate may:

- a) Grant the successful bidder additional time to fulfill the requirements; or,
- b) Award the contract to the second lowest Bidder and retain the lowest bidders bid deposit; or,
- c) Cancel the award and consider remedies available to the Municipality resulting from the successful bidder's inability to fulfill their responsibilities.

As soon as the executed contract and any other required documents are returned to and found acceptable by the Purchasing Agent and/or user department, the bid securities of the successful Bidder and the second low bidder shall be returned to them.

Authority to Execute Contracts



Subject to statutory requirements and where all the requirements of this Policy have been met, the Mayor and Clerk are authorized to execute contracts and any related documents that have been prepared in a form satisfactory to the Municipal Solicitor, except where otherwise provided for in this Policy. Notwithstanding the foregoing, the Mayor and Clerk may not be required to sign amendments to existing agreements.

Payment for Goods, Services and Construction

The Treasurer is authorized to pay for Goods, Services and Construction purchased in accordance with this Policy and shall pay for any such Goods, Services and Construction unless otherwise provided in this Policy or within the time commitments specified in the purchasing agreement or contract.

Purchases of Goods, Services and Construction may be paid from the user Department budget by use of a purchase order or Purchasing Card and are in accordance with this Policy.

No prepayment for all or any part of Goods, Services or Construction shall be made unless the contract specifically provides for such prepayment.

Accessibility

In accordance with Section 5(1) of Ontario Regulations 191/11 made under the *Accessibility for Ontarians with Disabilities Act, 2005*, the Municipality shall develop specifications and terms of reference that whenever possible, are not restrictive and allow for open completion from the marketplace.

Advertise all formal public Tenders and Request for Proposals on the Municipality's bid hosting website which can be accessed via the Municipality's website in order that the competitive bidding opportunity be advertised and accessible to all interested firms and promote competition.

The Municipality shall endeavor to incorporate accessibility design, criteria and features when purchasing goods, services and construction, where practicable. If the above mentioned design, criteria, and features for goods and services are deemed impracticable, the user department shall provide the Accessibility Coordinator with a written explanation explaining the constraints.

No Local Preference



Except as set forth in a), no local preference shall be shown or taken into account in acquiring Goods, Services and Construction.

- a) A local preference may be shown when the intrinsic nature of the acquisition necessitates a local preference, such as the solicitation by the Municipality for municipal office space or where construction materials are to be purchased at the source and it can be demonstrated that transportation costs or technical considerations impose geographic limits on the available supply base, specifically in the case of sand, stone, gravel, and/or asphalt for use in the construction or repair of roads.

In-House Bids

Unless specifically approved by Council, the Municipality does not allow in-house bids for the acquisition of Goods, Services and construction.

Lobbying

In order to ensure fairness to all persons, the Municipality must endeavor to prevent unfair advantage created by lobbying. The Municipality reserves the right to disqualify, at any time (including after the selection process has been completed) and at its sole discretion, any person engaging in lobbying with any elected official or employee of the Municipality in an attempt to seek information or to influence the award of the contract. Any activity designed to influence the decision process, including, but not limited to, contacting any elected official or municipal staff member for such purpose as meeting or introduction, social events, meals or meetings related to the selection process, shall result in disqualification of the vendor for the project to which the influential activity is deemed to be directed. Any vendor found to be in breach of this Policy shall be subject to immediate disqualification from the procurement process and may be prohibited from future opportunities.

In addition, no vendor who has been awarded the contract shall engage in any contact or activities in an attempt to influence any elected official or any employee of the Municipality with respect to the purchase of additional enhancements, options or modules. However, a vendor may communicate with the appropriate member of the Purchasing Department for purposes of administration of the contract during the term of the contract.

Separation of Roles and the Role of Council

In accordance with best practices in municipal procurement, Council recognizes the need for a clear separation of political and administrative functions in relation to the Municipality's procurement operations. It is the role of Council to establish policy and to approve expenditure through the Municipality's budget approval process.

Through the delegated authority by-law, Council delegates to the Municipality's officers and employees the authority to incur expenditures in accordance with approved budgets through the procurement of goods, services and construction in accordance with the rules and processes set out in this policy.

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

To avoid the potential appearance of bias or political influence in procurement contract award decisions, members of Council will have no involvement in competitive procurement processes for contracts from the time those procurement process have been initiated through the advertisement or issuance of the solicitation document until the contract has been executed and awarded to the successful bidder, except where Council is required to approve the contract award in accordance with the Purchasing Processes, Limits, and Authority to Award section of this document.

Conflict Of Interest

Goods, Services or Construction shall only be purchased by the Municipality from any officer or employee of the Municipality or any member of Council or from any business in which any officer or employee of the Municipality or any member of Council is an officer of such business through a competitive bid process.

Goods, Services or Construction purchased from any officer or employee of the Municipality or any member of Council, or from any business in which



any officer or employee of the Municipality is an officer shall be reported to Council through the Quarterly Delegated Authority report.

No person shall provide Consulting Services or Professional Services to both the Municipality and a private sector developer on the same or related project.

Performance Evaluation

The Purchasing Agent, in conjunction with the user department and project manager, if any, may initiate a performance review at the substantial completion or conclusion of a contract or more frequently if deemed appropriate by the Purchasing Agent.

Bidder Submission Withdrawal

Bidder Submissions may be withdrawn under the following conditions:

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

Identical Bids

In the event of the submission of identical bids by two suppliers, the Municipality will complete an evaluation of the submissions to ensure that both bid submissions and unit prices are accurate prior to conducting the tie-breaking process. The tie breaking process shall be conducted through a simple coin toss, in the presence of representatives from both suppliers.



In the event of the submission of identical bids by multiple suppliers, the Municipality will seek legal advice to identify mutually agreeable tie breaking solutions.

Schedule A - Errors and Irregularities Contained within Bids – Applicable to Electronic Bids Only

The following list of irregularities should not be considered all inclusive. The Purchasing Agent and, as may be warranted, in consultation with any or a selection of the following, User Department Head, CAO and/or the Municipality’s Solicitor, shall review irregularities not specifically listed and, acting in the best interests of the Municipality, have authority to waive such irregularities, permit correction to the irregularity or reject the submission.

| | Irregularity | Response |
|----|--|--|
| 1. | Late Submissions - Bids 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 that through the Bidding System, where no such provision is allowed for in the Bid document | Bid declared non-compliant |

| | Irregularity | Response |
|----|---|----------------------------|
| 5. | 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 |
| 6. | Bid Bond – Bond is not electronically verifiable / enforceable (e-Bond) as indicated in the bid documents | Bid declared non-compliant |
| 7. | Format – bid not on the form supplied by the Town or not in the format specified in the bid document | Bid declared non-compliant |
| 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 |

| | Irregularity | Response |
|-----|----------------------------|--|
| 10. | Other minor irregularities | Purchasing, in conjunction with the Treasurer 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 Municipality |

Schedule B - Errors and Irregularities Contained within Paper Bids

The following list of irregularities should not be considered all inclusive. The Purchasing Agent and, as may be warranted, in consultation with any or a selection of the following, User Department Head, CAO and/or the Municipality's Solicitor, shall review irregularities not specifically listed and, acting in the best interests of the Municipality, 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 Tender Security or Agreement to Bond or insufficient Tender Security). | Automatic Rejection for no bid deposit. Automatic Rejection for no agreement to bond. 48 hours to correct shortfall in bid |

| | Irregularity | Response |
|----|---|---|
| | | 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 Manager of 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 Manager of Purchasing and user department, 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 Manager of Purchasing and user department, 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 Municipality, when specified to | Automatic rejection. |

| | Irregularity | Response |
|-----|--|--|
| | do so. | |
| 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</p> |

| | Irregularity | Response |
|-----|----------------------------|--|
| | | <p>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 Municipality adversely will be clarified and may be rejected.</p> |
| 13. | Other minor irregularities | The Manager of Purchasing, in conjunction with the Director of Financial Services 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 Municipality. |

Dispute Resolution

If a Vendor is seeking to dispute an Award, or the process that preceded the Award, the Vendor may take the following steps:

- a) Submit a notice of question or objection in writing to the Treasurer, within fifteen (15) business days of notice of award posted on the Municipal bid hosting website.
- b) The Treasurer may arrange a meeting with the bidder and shall provide a response addressing the bidder's concern within fifteen (15) business days of receipt of the notice.
- c) If a resolution is unsatisfactory, the Vendor will have fifteen (15) business days from receipt of the response from the Treasurer to make a formal request to meet with the Chief Administrative Officer.
- d) If a resolution is unsatisfactory, the Vendor will have fifteen (15) business days from receipt of the response from the CAO to make a formal request to appear as a delegation at a Council meeting.

Submission Debriefing

Proponents may request a debriefing after receipt of notification of the outcome of the procurement process. All requests must be made in writing to the Purchasing Agent and must be made within thirty (30) days of such notification. The intent of the debriefing information session is to aid the proponent in presenting a better proposal in subsequent procurement opportunities. Any debriefing provided is not for the purpose of providing an opportunity to challenge the procurement process or its outcome.

Vendor Performance Management

The Purchasing Agent, in conjunction with the user department, may initiate vendor performance management to evaluate and improve the performance of all contractors awarded publicly bids by:

- a) pro-actively managing the performance of Contractors during the term of awarded Contracts, and
- b) creating a record of past performance for use by the Purchasing Agent and User Department in determining the award for future Solicitations.

Exceptions to Requirements of Purchasing Process

The purchasing processes described in this Policy **do not** apply to the following items.

1. Training and Education
 - a) Conferences, conventions, workshops, courses and seminars

- b) Magazines, subscriptions, books and periodical
 - c) Memberships
 - d) Staff development
2. Refundable Employee Expenses
- a) Mileage
 - b) Meal allowances
 - c) Travel
 - d) Miscellaneous – non-travel
3. Employer’s General Expenses
- a) Reimbursed employee expenses
 - b) Payroll and honoraria remittances
 - c) Medicals
 - d) Licenses
 - e) Grants to agencies
 - f) Damage claims
 - g) Debenture payments
 - h) Insurance premiums
 - i) Petty cash replenishments
 - j) Tax remittances
 - k) Refunds/overpayment of taxes/fees
 - l) Financial agreements (e.g. cost sharing with other municipalities)
 - m) Workplace Safety and Insurance Board (WSIB) remittances
 - n) Building permit refunds
 - o) Realty taxes
 - p) Employer and employee compensation
 - q) Charges to or from other government agencies
 - r) Real estate
 - s) Bank charges
 - t) Purchase of investments
4. Professional and Special Services
- a) Committee fees
 - b) Counselling services
 - c) Legal fees
 - d) Appraisal charges
 - e) Performance/artists fees
 - f) Honorarium
 - g) Arbitration fees
 - h) Medical, laboratory and pharmacy fees
 - i) Instructor fees



- j) Witness fees
 - k) Permit or application fees
 - l) Newspaper advertising as required under Notice Policy or applicable legislation
5. Utilities
- a) Water
 - b) Sewer
 - c) Natural gas, including relocation of infrastructure
 - d) Electricity, including relocation of infrastructure
 - e) Postage
 - f) Telecommunication services, including relocation of infrastructure
 - g) Cable television charges, including relocation of infrastructure
6. Real Property Interests
- a) All real estate transactions

Implications

a. Community

Sound financial policies and practices of the Municipality of Meaford are an important factor in ensuring a financially viable community that can attract economic development.

b. Environmental

The Municipality procures many goods, services and construction for improving and maintaining important infrastructure that supports the environmental integrity of the area, such as water and wastewater systems.

c. Financial

The development of a formal purchasing policy that establishes open and transparent procurement of goods, services and construction is an important component of overall sound financial management of the Municipality of Meaford.

Monitoring

Any required changes shall be submitted to Council for consideration and approval. Any changes or revisions to the Municipal Act, 2001, or to the regulations thereunder affecting the policy will apply when they come into force. This Policy will be updated to reflect such change(s) at the time of formal review. Otherwise, this Policy will be forwarded to Council for review during the first term of each newly elected Council.

Authority

This policy is established pursuant, as amended, and not limited to the following:

- Section 270 of the Municipal Act, 2001, as amended, which provides for the adoption of policies pertaining to the Procurement of Goods, Services and Construction;
- Contract Law in Canada;
- Public Procurement Trade Agreements;
- Canadian Free Trade Agreement;



- Comprehensive Economic and Trade Agreement;
- Discriminatory Business Practices Act; and
- Conflict of Interest Act

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Change History

| Policy Name | Effective Date | Significant Changes | By-law No. |
|-------------------|------------------|---------------------|------------|
| Purchasing Policy | January 23, 2017 | Replacement Policy | 04-2017 |
| Purchasing Policy | April 29, 2019 | Amended Policy | 2019-40 |
| Purchasing Policy | July 26, 2021 | Amended Policy | 2021-56 |