

THE CORPORATION OF THE TOWN OF TILLSONBURG

BY-LAW 2020-____

A BY-LAW to establish policies and procedures for the procurement of goods and services, payments of accounts and the disposal of surplus goods for the Corporation of the Town of Tillsonburg and to repeal By-Law 3967.

WHEREAS pursuant to Section 270 of the Municipal Act, 2001, c. 25, a Municipality or local board shall adopt policies with respect to its procurement of goods and services;

AND WHEREAS the Council of the Corporation of the Town of Tillsonburg recognizes its responsibility to provide for fair, transparent and accountable purchasing practices for the effective utilization and disposal of all its resources; and

AND WHEREAS the Council of the Corporation of the Town of Tillsonburg deems it necessary and expedient to repeal By-Law 3967, Purchasing Policy.

BE IT THEREFORE ENACTED by the Council of the Corporation of the Town of Tillsonburg as follows:

1. Definitions

In this By-Law:

“Agent” shall mean the Treasurer or designate who has the sole authority to authorize, save and except the Mayor and Clerk, to execute contract documents on behalf of the Town;

“Agreement” means a written document between the Town and another party upon legal consideration for the procurement of goods, services or construction pursuant to this policy. Also called “Contract”;

“Award” means the acknowledgement of the authority to proceed to commit to an external Supplier(s) for acquisition of goods, services or construction. An Award can only be made after the relevant bid award form is signed or the Council resolution is ratified;

“Best Value” means the optimal balance of performance and cost determined in accordance with a pre-defined evaluation plan which may include a cost/benefit analysis to define the best combinations of quality, service, time, and cost considerations over the useful life of the acquired item or for the immediate level of expected service and deliverable;

"Bid" shall mean

- i. a specific price for specific works or
- ii. where appropriate, a proposal;

“Bidder” means one who may or has submitted a response to an invitation to bid as issued by the Town;

“Buyer” shall mean any employee procuring goods and services for the Town;

“CAO” shall mean the Chief Administrative Officer of the Town of Tillsonburg;

“Clerk” shall mean the Clerk of the Town appointed pursuant to the Municipal Act 2001, as amended, or in her absence, the Deputy-Clerk or such other person designated by the Council by resolution for the purposes of this By-Law;

“Competitive Bidding Process” means a process for procurement of goods, services or construction whereby a prescribed method is used to solicit three or more bids or proposals.

“Contract” means a written document between the Town and another party upon consideration for the procurement of goods, services or construction pursuant to this policy. Also called “Agreement”;

“Department Manager” shall mean the individual or designate who is accountable for the budget and responsible for the operations of any single department or division within the Town;

“Director” shall mean the individual accountable for the operation of overall departments within the Town;

"Emergency" shall mean a situation, or the threat of an impending situation, where serious delay may affect the life, safety, health or welfare of the general public, cause damage to the environment or to the property of the residents of the Town, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level;

“Execute” in relation to any document developed pursuant to this policy means to sign by the authorized officers of the parties, and “Executed” has a corresponding meaning;

"Goods and Services" shall include all supplies, materials, equipment, furniture, fixtures, general maintenance and service construction contracts, construction maintenance, contractors, and or subcontractors, food, drugs and professional services, but does not include real property;

“His” shall in all cases mean his or her and "he" shall in all cases mean he or she;

"Prescribed Forms or Forms" shall mean the standard documents as provided as part of the purchasing procedure guidelines as approved by the CAO;

“Procurement” means the purchasing, renting, leasing, or otherwise acquiring of supplies, services, or construction; includes all functions that pertain to the acquisition, including description of requirements, selection and solicitation of sources, preparation and award of contract; and all phases of contract administration such as inventory control, receiving, inspection (all as applicable); and disposal.

“Professional Services” shall mean the services of architects, engineers, designers, surveyors, management and financial consultants, brokers, lawyers, planning consultants, project managers and any other professional and consulting services required by the Town;

“Purchase” shall mean the acquisition of Goods and Services or any interest therein by purchase, lease, rental or otherwise;

"Quotation" shall mean a written request for vendor bids for the supply of goods or services, from selected sources of supply, not opened in public;

"Request for Proposal (RFP)" shall mean a formal request for details on the supply of goods or the provision of services, which cannot be fully defined or specified at the time of the request;

“Sole Source” is defined as any contract entered into without a competitive process, based on a justification that only one known source exists or that only one single supplier can fulfill the requirements.

“Successful Bidder” means a Bidder who has met or exceeded the minimum requirements of the bid document in its entirety as determined by the Town of Tillsonburg in its absolute discretion and to whom award is recommended pending the necessary internal approvals;

“Supplier” shall mean any company or organization that provides, or has the capacity to provide, certain Goods or Services to the Town in accordance with the terms of this By-Law;

"Tender" shall mean a formal request for sealed Bids for the supply of Goods and Services in response to an advertised solicitation;

“Town” shall mean The Corporation of the Town of Tillsonburg;

"Vendor of Record" shall mean an approved vendor.

2. Objectives

The objective of the By-Law is to ensure:

- a) Best value is achieved consistent with the required quality and service;
- b) Integrity in the purchasing process;
- c) Openness, accountability and transparency and fair treatment of all bidders;

- d) Encouraging bids through e-bidding, newspaper(s) and website(s).

3. Guidelines

- a) No Purchase shall be made except as provided in this By-Law.
- b) No Purchase shall be split so as to avoid the purchasing process as outlined within this By-Law.
- c) Council has the ultimate authority for all expenditures. Council delegates this authority by the authorization of budgets or by specific resolution.
- d) Prior to the approval of the current year's business plan and budget, a department may incur normal operating expenditures that are required to maintain services. This shall include the payment of expenditures on previously approved capital items and projects.
- e) No contract shall be entered into and no expenditure shall be authorized unless Council has provided funds for such purpose in the annual budget or agreed to the provision of such funds.
- f) The Department Managers, Directors, Fire Chief or the CAO shall ensure that all provisions of this By-Law are complied with in respect of the purchase of Goods and Services for or on behalf of his department and are responsible for the approval of accounts within the approved budget for the department.
- g) This procurement By-Law may be overridden by Council if Council, in its own discretion determines it to be appropriate and in the best interest of the Town.
- h) The Director of Finance shall maintain written procurement procedures and procurement shall adhere to those procedures.

4. Establishing Price Range

Purchase prices (excluding HST) shall be obtained as follows:

- **Up to \$1,000** – Purchases are to be made using buyers own pricing discretion; vendor of record is preferred.
- **\$1,001 to \$4,000** – For any purchases, other than those covered by a vendor of record, when the amount is between \$1,001 and \$4,000, comparison pricing must be completed by the assigned Buyer.
- **\$4,001 to \$15,000** – For any purchases, other than those covered by a vendor of record, when the amount is between \$4,001 to \$15,000, the

assigned Buyer making the purchase shall obtain quotations from more than one source using catalogues, suppliers lists, online pricing or through negotiations, upon assuring themselves that all prices offered are fair and equitable.

- **\$15,001 to \$50,000** – For all purchases between \$15,001 and \$50,000, a minimum of three written quotations must be obtained by the assigned Buyer.
- **Over \$50,001** – By Tender or Request for Proposal.
 - The above mechanisms are the minimum acceptable practices for the listed threshold. Any mechanism can be used for a lower purchase bracket.
 - The above prices shall be on a before-tax basis. Adherence to the above does not apply to circumstances addressed in section 6.
 - Purchases made for a project which is receiving grant or external funding are subject to purchasing thresholds as set in the funding agreement. If no funding thresholds are identified within the funding agreement, the above purchasing thresholds shall be followed.

QUICK GUIDE TO PURCHASING GUIDELINES

Minimum Purchasing Mechanism	Dollar Value of Purchase	Approval Authority & Authority to Award
Small Order Purchase*	Up to \$250	Employee
Small Order Purchase*	\$251 - \$1,000	Supervisor or Assigned Buyer
Comparison pricing*	\$1,001 to \$4,000	Department Manager
Price Quotes*	\$4,001 to \$15,000	Department Manager
Written Quotation*	\$15,001 to \$50,000	Director and Treasurer

Tender, Request for Proposals or Sole Source Purchases*	\$50,001 to \$75,000	Director and CAO
Tender, Request for Proposals or Sole Source Purchases*	\$75,001 +	Council (unless in accordance with section 7.0 (d))

*Unless prescribed through a funding agreement

5. Accountability

- a) The CAO shall maintain accountability to Council during the procurement process.
- b) No purchase of Goods and Services shall be made by the Town for the personal use of elected or appointed officials or employees of the Town.
- c) No Goods and Services shall be purchased from an employee of the Town, or from any associate of such employee, unless the extent of the interest of such employee has been fully disclosed and the purchase has been approved by the Treasurer.
- d) The Agent oversees the Town's purchasing process and compliance thereof. Only the Agent, Mayor or Clerk has the authority to execute contract documents on behalf of the Town.

6. Prescribed Council Approval

The following Purchases shall be subject to Council approval:

- a) Any contract prescribed by statute to be made by Council;
- b) Any contract where this By-Law is being waived;
- c) Any contract where Council has expressly directed staff to report prior to an award;
- d) Any contract where a submission in response to a call for Bid contains an irregularity that cannot be resolved by terms of the Bid; or,
- e) Any contract for a Purchase made in accordance with section 7.0 (b);

- f) Any contract for a tender or request for proposal as required under this policy.
- g) Any contract which is not contained within the approved budget and is in excess of a \$25,000 threshold.
- h) Any contract which is in excess of the approved budgeted value.
- i) All purchases of municipal land unless delegated by resolution.

Council may waive, by resolution, the application of any part of this By-Law in respect of any given procurement.

7. Exceptions

- a) When an emergency occurs that, at the discretion of the CAO, Director, Fire Chief, or Department Manager, constitutes immediate danger to health, safety, life or property, or requires the immediate procurement of goods and services, the Department Manager or his/her designate may purchase through sole sources such required Goods or Services upon consultation with the Director or Treasurer. A follow-up report to Council is required for all Emergency Purchases over \$25,000.
- b) The Tendering, RFP or purchasing process may not be required where the Goods or Services are proprietary to one vendor, where there is only one supplier that can meet the Town's needs within a reasonable distance or where the cost of changing suppliers for a product or service already in place is deemed to be exorbitant by the Treasurer. Upon written staff recommendations, Council shall, in its' sole discretion determine whether a Bid, RFP or purchasing process may be forgone for these reasons. Such exemption must be granted by resolution.
- c) Notwithstanding the provisions of this policy, the following expenditures must be made subject to budget constraints and may be made without following the formal purchasing procedures detailed herein;
 - i. Petty cash items
 - ii. Training and education including conferences, courses and seminars
 - iii. Mileage, travel and accommodations
 - iv. Payroll related expenses
 - v. Utilities, postage, bank charges
 - vi. Licensing, maintenance and software support for prior purchases;
 - vii. Professional Services identified as a vendor of record
- d) Approved budgeted contracts received under budget and with a value less than \$250,000 do not require additional Council approval, regardless of funding source, except in accordance with section 6.0 (i). Authorization of said approved budgeted contracts resides with the Treasurer.

8. No Lobbying

No bidder shall contact any member of Council or any Town staff in an attempt to influence the award of a contract.

If a bidder contacts any member of Council or any Town staff in an attempt to influence the award of a contract, the bidder may be disqualified at the discretion of the CAO.

9. Health and Safety

The Town is committed to the health and safety of their employees, contractors, visitors and the general public. This includes a commitment to Health and Safety in the procurement process.

10. Co-Operative Purchasing

The Town may participate with other government agencies or public authorities in co-operative purchasing. The policies of the government agencies or public authorities calling the Co-operative Bid are to be the accepted policy of that particular Bid.

11. Disposal of Surplus

Where any goods or personal property of the Town are declared surplus, cannot be used by another Town department, and have a residual value greater than \$1,500, the goods shall be disposed of by public Bid or public auction. If no Bids are received, the Departmental Manager or Buyer may dispose of the goods or personal property as deemed to be in the best interest of the Town. This section shall not apply to goods or equipment traded in on new equipment or returned for credit to original sources of supply.

12. Tie Bids

In the event that two (2) or more compliant, equal bids are submitted during a competitive Bid process, the Town shall determine the successful bidder by drawing a bidder's name, as determined by the Treasurer.

13. Delegation of Authority to Purchase

The authority to purchase Goods and Services may be delegated or assigned to a local Board following the dollar thresholds as set out in this By-Law.

14. Other

Where any other By-Law exists which is in conflict with a provision of this By-Law, the provision of this By-Law shall be deemed to apply.

This By-Law shall be reviewed and updated, as appropriate, every five (5) years, following the date of its enactment.

15. THAT By-Law 3967 be and is hereby repealed in its entirety.

16. THAT this By-law and any amendments thereto shall be known as the "Tillsonburg Procurement By-Law."

17. THAT this By-Law shall come into full force and effect upon passing.

READ A FIRST AND SECOND TIME THIS 13th day of JULY, 2020.

READ A THIRD AND FINAL TIME AND PASSED THIS 13th day of JULY, 2020.

MAYOR – Stephen Molnar

TOWN CLERK – Michelle Smibert