

Procurement Policy



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Corporate Services	August 13, 2013	80-2013	1	19
Subsection	Repeals By-Law Number		Policy Number	
Procurement	26-2013		CS-1-1	

Purpose

The goals of the City procurement policy shall be:

- a) To procure the required quality and quantity of goods, services or construction at the least possible end use cost. It is noted that the lowest tender / quote does not always mean the lowest end cost;
- b) To encourage competition among contractors and suppliers; and
- c) To ensure fairness, accountability, objectivity and transparency in the procurement process.

Application

This policy shall apply to the purchase of goods, services or construction for the purposes of all City departments, excepting those governed by separate local boards and / or commissions as established under either Federal or Provincial legislation.

This policy shall not apply to the acquisition or disposal of any real property or fixtures or to any lease, right or permission relating to the use or occupation of real property.

Responsibilities and Authorities

Each Manager shall be responsible for and shall have authority for all procurement activity and decisions within their areas of responsibility, as outlined within this policy.

Each Manager shall be held directly accountable for any deviation from the procurement policy within their areas of responsibility.

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It shall be at the Managers' discretion to delegate all or any portion of their authority within this policy, up to a maximum spending authority limit of \$5,000, to such individuals within their department as they consider appropriate. It shall be the Managers' responsibility to advise the Corporate Services Manager in writing with regards to any such delegation of authority.

Authority of the Chief Administrative Officer

Where any authority has been granted to any officer or employee of the City pursuant to this policy, such authority may be exercised by the Chief Administrative Officer.

Despite any other provision of this policy, during any period that regular Council meetings are suspended or altered from the regular schedule for any reason, or during the period that the acts of Council are restricted under Section 275 of the Municipal Act, the Chief Administrative Officer shall be authorized to award any contract. A report shall be submitted to Council, as soon as reasonably possible, setting out the details of any contract awarded in this manner.

Restrictions

The following restrictions shall apply:

- a) The purchasing procedures set out in this Policy shall not apply to the following types of expenditures, provided that the purchase does not exceed the amount approved in the annual budgets:
 - i. Training and education expenses, including courses, conferences / conventions, seminars, subscriptions, membership fees and fees for trainers / facilitators;
 - ii. Refundable employee / councillor expenses, including advances, meal allowances, travel, entertainment and miscellaneous;
 - iii. Employer's general expenses, including payroll deduction remittances, health benefits, medicals, licences, debenture payments, insurance premiums and claims, damage claims, grants, petty cash replenishment and tax remittances;

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- iv. Professional and special services, including legal fees, committee fees, funeral and burial expenses, witness fees, interpreter fees and payments authorized under purchase of service agreements;
- v. Utility charges, including water, hydro, gas, telephone and telecommunications;
- vi. Postal and delivery charges;
- vii. Advertising services required by the City on or in but not limited to radio, television, newspaper and magazines;
- viii. Bailiff or collection agencies
- ix. Any payments required to be made by the City under statutory authority.

For these excluded items, it is each Manager's responsibility to make every effort to obtain the lowest possible cost as appropriate.

- b) No contract for goods, services or construction may be divided into two or more parts to avoid the application of the provisions of this policy;
- c) No personal purchases shall be made by the City directly or indirectly for members of Council or any appointed member of a local board or commission, or for any officer or employee of the City;
- d) No Council member, officer or employee of the City shall personally obtain any goods that have been declared surplus unless through a public process;
- e) All purchasing undertaken by the City shall be undertaken in accordance with the City's Council Code of Ethics and Employee Conduct Policies and in accordance with the Municipal Conflict of Interest Act, as amended.
- f) Nothing in this policy will enable the Corporate Services Manager to initiate any purchases for any reason. All authorities given to this position within this policy are strictly for approval of expenditures initiated through other authorized individuals.

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Total Acquisition Cost

All dollar limits expressed within this policy shall be the estimated total acquisition cost less any applicable rebates.

Local Preference

In accordance with the Discriminatory Business Practices Act, the City does not have a local preference policy.

Blanket Purchase Orders

A blanket purchase order may be used where:

- a) One or more departments repetitively order the same goods, services or construction and the actual demand is not known in advance;
- b) A need is anticipated for a range of goods, services or construction for a specific purpose and for which convenience and location are major factors but the actual demand is not known at the outset.

The Managers shall establish and maintain blanket purchase orders in accordance with the procedures and limits as expressed within this policy. To establish prices and select sources, the Manager shall employ the provisions contained in this policy for the acquisition of goods, services or construction.

More than one supplier may be selected where it is in the best interests of the City and where the bid solicitation allows for more than one.

The expected quantity of the specified goods, services or construction to be purchased over the time period of the agreement will be as accurate an estimate as practical and be based, to the greatest extent possible, on previous usage adjusted for any known factors.

Request for Expressions of Interest

A Manager may conduct a request for expression of interest for the purposes of determining the availability of suppliers of any goods, services or construction and for the purposes of keeping a list of available suppliers.

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Authorization of Budgeted Purchases

Where the acquisition of goods or services has been approved in the City's annual budgets, the following procedures shall apply:

Purchases Not Exceeding \$2,000

The Treasurer shall have authority to establish petty cash funds in such an amount to meet the requirements of a department for the acquisition of goods, services or construction having an individual total acquisition cost of \$500 or less. All petty cash fund disbursements shall be evidenced by vouchers and shall be available for auditing purposes through the finance department.

Where the total acquisition cost does not exceed two thousand dollars, purchases shall be made from a competitive market place wherever possible. Quotations may be received either verbally or in writing.

Purchases may be made utilizing cash, cheque, purchase order, or City purchase / credit cards.

Purchases Not Exceeding \$5,000

Where the total acquisition cost does not exceed \$5,000, a request for quotations shall be issued, where possible. A minimum of three (3) quotations shall be requested and shall be received in writing.

Purchases may be made utilizing cheque, purchase order, or City purchase / credit cards.

The Manager, or his / her designate, may authorize the purchase provided that the award is made to the bidder submitting the lowest end cost, compliant bid.

Purchases Not Exceeding \$20,000

Where the total acquisition cost does not exceed \$20,000, a request for quotations shall be issued. A minimum of three written quotations shall be requested.

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Purchases shall be made utilizing a purchase order. A signed purchase order shall be required prior to obtaining a cheque for the purchase.

The Manager, or his / her designate, shall evaluate the quotes received, and determine the recommended award to the bidder submitting the lowest end cost, compliant bid. The Manager may authorize the purchase, based on that recommendation, provided that the award is made to the bidder submitting the lowest end cost, compliant bid.

In appropriate circumstances, the Request for Proposal or the Request for Tender processes may be used for the purchase of goods, services or construction in this total acquisition cost range.

The procedure used to purchase the goods, services or construction in this total acquisition cost range shall demonstrate that Fair Market Value was achieved.

Purchases Exceeding \$20,000

Where the total acquisition cost of any goods, services or construction exceeds \$20,000, either a request for tenders or a request for proposals shall be undertaken, save and except for situations in which the requisitioning Manager is able to demonstrate that it is in the City's best interests that the specified goods, services or construction not be obtained through this manner.

Request for Tenders/Proposals

Process

A request for tenders or request for proposals shall be undertaken in compliance with the following process:

- a) The Manager shall determine whether an invitational or public request for tenders / proposals is to be used. The Manager's decision must be based on the best interests and value to the City.

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- i. Requests for public tenders / proposals shall be publicly advertised.
 - ii. Requests for invitational tenders / proposals will be sent directly to the appropriate parties with no advertising required.
- b) The request for tenders / proposals shall include:
- i. A brief description of the request for tenders / proposals, including the scope of the goods, services or construction;
 - ii. Where the packages may be obtained;
 - iii. The specified closing date and time;
 - iv. If bid deposits are required;
 - v. Any related compliance requirements; and
 - vi. Identification of the evaluation criteria and weightings, with a clear direction on how each of the applicable criteria shall be utilized in evaluating the bids.
- The form of the request for tenders / proposals shall, to the extent possible, use standardized documentation.
- c) All bids must be submitted in a sealed envelope, clearly marked as to its contents and to the attention of the City personnel specified in the bid document.
- d) Unless specified otherwise in the request for tenders / proposals, as bids are received, they are time and date stamped to ensure compliance with the closing date and time.
- e) Faxes / e-mailed bids are not accepted unless either submitted by an agent on behalf of the bidding company or indicated by the City in the original request for tenders / proposals that a fax / e-mail will be accepted.
- f) Bids shall be opened on the date and time stated in the request for tenders / proposals. The date and time shall be shortly after the closing time stated.

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- g) Bid openings shall be open to the public and be attended by at least the requisitioning Manager and either the City Clerk, the Corporate Services Manager or their designate.
- h) Bid submissions that do not meet the terms, conditions and specifications in accordance with the request for tenders / proposals package shall be rejected, unless the deviation is minor in nature.
- i) Tenders / proposals received by the City after the set date and time of closing shall be returned to the sender unopened.
- j) No alteration shall be made to a tender / proposal after the opening except where such alteration can be decisively shown to be an error in computation or typing. Where a unit price is involved, only the unit price can be adjusted in the case of an error in computation. The total price of the tender / proposal shall not be changed. The bidder shall be advised of the alteration.

Award to Lowest End Cost, Compliant Bidder

Tenders / proposals shall be awarded to the lowest end cost, compliant bidder, the decision criteria for which shall be clearly identified in the request for tenders / proposals. In determining the lowest end cost, compliant bidder, the following shall be taken into account:

- a) Quoted price, including related ongoing costs if applicable;
- b) The bidder's ability to perform the contract or provide the supplies, materials or equipment within the time specified without delay or interference;
- c) Adherence to applicable City Health & Safety policies as well as Provincial Health & Safety Legislation and related Regulations.
- d) Adherence to the Integrated Accessibility Standards Regulation made under the Accessibility for Ontarians With Disabilities Act and the City of Kenora Accessibility Policy
- e) Previous performance of supplier;

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- f) The ability of the bidder to provide future maintenance and service; and
- g) Associated delivery and set-up costs; warranty and guarantee period.

Other specific, relevant decision criteria may also be used provided they are clearly identified in the request for tenders / proposals.

Evidence of Compliance

Prior to the commencement of works for the tender / proposal, the successful bidder shall provide evidence of compliance with Provincial legal requirements and municipal By-laws as it relates to carrying on business in Ontario by:

- a) Showing proof of registration with the Workplace Safety and Insurance Board (WSIB), including proof of good standing;
- b) Complying with the Provincial Retail Sales Tax requirements;
- c) Complying with the requirements of the Trades Qualification and Apprenticeship Act;
- d) Acquiring a City of Kenora business license, if applicable; and
- e) Any or all other requirements as applicable.

Liability Insurance

Liability Insurance coverage in the amount of \$2 million or other such amount as may be deemed necessary shall be provided by the bidder as determined by the requisitioning Manager for the acquisition of supplies and services.

Award of Contracts

The Corporate Services Manager may award the tender / proposal provided that:

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- a) The purchase is included in the City's budgets, and is within the budgeted amount;
- b) The total cost of the contract does not exceed the following authority limits:
 - i. Operating expenditures not exceeding \$100,000;
 - ii. Capital expenditures not exceeding \$250,000, with the exception of;
 - iii. Capital expenditures for equipment outlined specifically in the capital budget not exceeding \$500,000;
- c) The award is made to the bidder whose bid achieves the highest score as a result of the evaluation;
- d) The term of the contract does not exceed the lesser of either the current operating year or the remainder of the term of Council; and
- e) The award is made to the bidder submitting the lowest end cost, compliant bid.

A report shall be submitted quarterly to Council to advise of the award of any tenders / proposals under this section.

Any expenditure not eligible for approval within this section requires written confirmation from the Corporate Services Manager that the expenditure will not exceed the approved budgets. The applicable Manager is responsible for analyzing the quotations submitted and making a formal recommendation to Council regarding the successful bid.

Use of Request for Tenders

A request for tender shall be used where all of the following criteria apply:

- a) Two or more sources are considered capable of supplying the goods, services or construction;
- b) The goods, services or construction is adequately defined to permit the evaluation of tenders against clearly stated criteria;

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- c) The market conditions are such that bids can be submitted on a competitive pricing basis; and
- d) It is intended that the lowest end cost, compliant bid will be accepted without negotiations.

Use of Request for Proposals

A request for proposals shall be used where the goods, services or construction cannot be specifically defined and it is anticipated that bidders may propose a variety of alternatives to fulfil the City's requirements.

Price Agreements

A request for tenders may be issued in order to establish a price agreement for specified goods, services or construction for a specified time.

The City shall have no obligation to any contractor to order any goods, services or construction under a price agreement.

In House Bids

In house bids may be used for the procurement of goods, services or construction in accordance with policies as adopted by Council.

Contingencies

Where the purchase of goods, services or construction has been authorized under this policy, the Corporate Services Manager may authorize disbursement of additional funds, provided that such additional funds shall not exceed fifteen percent (15%) of the total cost of the original contract, and provided that the additional funds are required to complete the work set out in the original contract and there are sufficient funds within the approved budgets to cover the incremental costs, irrespective of the total cost of the original contract.

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Purchase of Additional Goods, Services or Construction

Where goods, services or construction have been purchased under this policy, no similar, additional or related goods, services or construction shall be purchased from the same contractor, whether by way of contract extension, renewal or separate purchase, unless:

- a) A report is submitted to Council; or
- b) The procurement procedures set out in this policy are complied with as if the additional purchase is a new contract; or
- c) The total cost of the additional goods, services or construction does not exceed twenty percent (20%) of the total cost of the original contract and there is sufficient budget flexibility available to cover the incremental costs; or
- d) The total cost of the additional goods, services or construction is to be paid in full by a third party, and security to ensure payment is in place, to the satisfaction of the Corporate Services Manager

Any amount authorized under this section may be expended in addition to any contingency allowance authorized under the Contingencies section of this policy, and may be authorized by the Corporate Services Manager irrespective of the total cost of the original contract.

Despite the restrictions on the purchase of additional goods, services or construction as laid out previously, the Chief Administrative Officer may authorize the purchase of additional goods, services or construction provided that:

- a) The requirement for the additional goods, services or construction could not reasonably have been anticipated at the time of the award of the original contract; and
- b) The authorization to purchase the additional goods, services or construction is required to prevent interruption in service delay or to avoid incurring extra costs; and

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- c) A request is submitted to the Chief Administrative Officer on a form prescribed by the Corporate Services Manager.

A report shall be submitted quarterly to Council advising of any expenditures made under this section of the policy.

Cooperative Purchasing

The City may participate with other government agencies or public authorities in cooperative purchasing where it is in the best interests of the City to do so and where the purposes, goals and objectives of this policy are complied with by such government agencies and public authorities.

The policies of the government agencies or public authorities calling the cooperative bid solicitation are to be the accepted policy for that particular purchase.

Sole Source Purchases

A sole source purchase may be made for the procurement of goods, services or construction without issuing a request for tenders / proposals where the compatibility of a purchase with existing equipment, facilities or service is the paramount consideration.

The Manager may award the contract provided there is written confirmation from the Corporate services Manager that the expenditure will not exceed the approved operating budget.

Unsolicited Proposals

Where the City receives an unsolicited proposal, the Manager may determine if the proposal shall be evaluated in accordance with the Sole Source Purchases section of this policy.

If the Manager determines that the unsolicited proposal should be considered a sole source purchase, an award may be made in accordance with the Sole Source Purchases section of this policy.

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Contractor Performance

The Manager shall be responsible for monitoring the performance of contractors and documenting evidence of such performance and shall advise the Chief Administrative Officer in writing where the performance of a contractor has failed to comply with a contract or other City requirement.

The Manager and the CAO may, in their sole discretion, prohibit a contractor whose performance has been unsatisfactory from submitting a bid in response to a request for tenders / proposals. This prohibition shall also apply to any contractor failing to meet any City or otherwise legislated Health & Safety requirements.

Identical Tenders

If the lowest compliant bids from two or more bidders are identical in total acquisition cost or unit price, the Manager is authorized to split the contract for the purchase of goods, services or construction equally between the lowest end cost, compliant tenders, where possible.

When it is not possible to equally split the contract for the purchase of goods, services or construction, then the successful bidder shall be determined by a coin toss. The coin toss shall be performed in the presence of the Manager and the Chief Administrative Officer, as well as the related bidders, should they wish to attend.

Emergency Purchases

Despite any other provision of this policy, in cases of emergency, as determined by a Manager or the Chief Administrative Officer, the purchase of goods, services or construction may be authorized without issuing a request for tenders / proposals.

An emergency is defined as an event or circumstance where the immediate purchase of goods, services or construction is necessary to prevent or alleviate serious delay, a threat to public health, safety or welfare, the disruption of essential services or damage to public property or any other expenditure that is necessary to respond to any such event and may include, but is not limited to, an emergency declared under the Emergency Management and Civil Protection Act.

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The Manager shall, as far as is feasible, obtain the lowest price for supplies and services that are necessary to prevent serious delays, further damage or greater harm.

The limit of such an emergency purchase shall be two hundred and fifty thousand dollars (\$250,000).

Where any emergency purchases have been made, the Manager responsible shall report said purchase in writing at the next meeting of Council, identifying the proposed sources of funding.

Council Approval

Despite any other provision of this policy, a report shall be submitted to Council prior to authorizing an award in each of the following circumstances:

- a) Any contract where the total acquisition cost is greater than the Council approved budgets, except as specifically authorized under the "Bids in Excess of Project Estimates" section of this policy.
- b) Any contract where the total acquisition cost exceeds the authority limits as outlined in this policy.
- c) Any contract where the award is not proposed to be made to the bidder with the lowest end cost, compliant bid, or where an irregularity precludes the award of a contract to the supplier submitting the lowest end cost, compliant bid.
- d) Any contract where a good, service or construction is available from only one source of supply and the total acquisition cost of such good, service or construction exceeds \$100,000; or where a bid solicitation has been restricted to a single source of supply because standardization or compatibility is the overriding consideration.
- e) Any contract where the term of the proposed contract is for a period longer than the lesser of either the current operating year or the remainder of the term of Council.

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- f) Any contract where there is current litigation between the bidder and the City.
- g) Any contract otherwise specifically required to be approved by Council as provided in this policy.

All reports to Council for expenditure approval must include justification for the recommended purchase, a summary of all quotations received, together with a purchase order signed by the Corporate Services Manager.

Non-Budgeted Expenditures

Where a requirement exists to initiate a project for which goods, services or construction are required and funds are not contained within the Council approved budgets to meet the proposed expenditure, the Manager shall, prior to the commencement of the purchasing process, submit a report to Council, which shall include:

- a) Information surrounding the requirement to contract;
- b) The terms of reference to be provided in the contract; and
- c) Information on the proposed funding source for the expenditure, together with a written confirmation from the Corporate Services Manager that the requested source of funding is both available and accessible.

Expenditures Before the Passing of the Budget

For the purposes of this policy, prior to the approval of the municipal budgets, Managers shall have the authority, within the guidelines as outlined in this policy, to expend up to ninety percent (90%) of the previous year's approved operating budget. All items either capital in nature or budgeted as unusual spending through the capital budget process, must receive Council approval prior to the approval of the municipal capital budget.

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Bids in Excess of Project Estimates

Where bids are received in response to a bid solicitation but exceed project estimates, the Manager may enter negotiations with the lowest compliant bidder to achieve an acceptable bid within the project estimate.

Where the Manager is unable to reduce the amount of the bid sufficiently to be within the budgeted amount for that project without negatively affecting project scope to the detriment of the municipality, the Manager may identify an appropriate funding source from a budgeted expenditure within the same department or function that has either been completed under budget or has been deemed of a lesser priority by that Manager. The Manager shall then present this funding option to the Corporate Services Manager. The Corporate services Manager shall have authority to transfer those remaining budget dollars to fund the project if it is deemed that it is in the best interests of the City to do so. The Corporate Services Manager shall be required to report any such transfers to Council on an annual basis for the purpose of passing a budget amendment By-law to formally amend the budget to reflect the reallocation of funds. For clarification purposes, nothing within this section shall enable the Corporate Services Manager to transfer funds between projects where the total cost of the project being transferred to exceeds the spending authority limits as set out within this policy.

Surplus & Obsolete Materials

All surplus and obsolete stock shall be dealt with in compliance with the City's policy for Disposal of Surplus & Obsolete Materials (FI-3-1).

Contract Documents

Where the purchase of goods, services or construction has been authorized under this policy, the contract may be executed by the Manager. Contracts shall be in a form approved by the City.

Where a contract for goods, services or construction is of nominal value and is not subject to the procurement procedures as set out in this policy, the Manager may execute such a contract, subject to the prior approval of the City solicitor where applicable.

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All contracts executed pursuant to this policy shall be delivered to the City's central records department.

Payment of Accounts

Except as otherwise provided, the Treasurer shall be authorized to pay:

- a) All accounts for the purchase of goods, services or construction, where the purchase of such goods, services or construction has been made in accordance with this policy, or otherwise approved by Council;
- b) All accounts authorized by payment certificate, for work done under a contract approved by Council, where such payments have been certified in writing by the Manager;
- c) All items included under sub-section a) of the Restrictions section of this policy, subject to such expenditures being approved in the annual budgets; and
- d) All requisitions for monies that the City is required to pay to its local boards or other bodies on account of their approved annual estimates, including advances before such budgets are approved.

Access to Information

The disclosure of information received relevant to the issue of bid solicitations or the award of contracts resulting from bid solicitations shall be in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, as amended.

Policy Review

This policy shall be reviewed and evaluated for effectiveness prior to the end of each Council term, and any amendment thereto shall be made prior to the inaugural meeting of the next Council.

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The review shall determine how effective this policy has been in achieving the objectives as set out under the Purpose section of this policy as well as the requirements of the Municipal Act, as amended.

The Finance Committee of Council may undertake the review, the final result of which shall be comprised of a report to Council by the Corporate Services Manager.