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SHELBURNE
ONTARIO, CANADA

CORPORATE POLICY

Schedule A to By-law # 53-2019

DEPARTMENT:	TREASURY – FINANCIAL SERVICES
POLICY:	MUNICIPAL PROCUREMENT POLICY
APPROVAL:	COUNCIL
POLICY NUMBER:	2019-05
DATE OF PRESENTATION:	September 9, 2019
EFFECTIVE DATE:	September 9, 2019

1. PURPOSE:

To establish a policy that provides direction to all municipal departments, municipal staff and officials to acquire goods and services. No member of council or municipal employee shall have the right to acquire goods and services or to otherwise bind the Municipality in respect to the acquisition of goods and services, except in accordance with this policy. The rules contained within this policy shall not apply where the supply of funds, approval of borrowing, or the provision of other financial assistance is mandated by statute

2. POLICY STATEMENT:

The provisions contained in this policy serve to supplement the provincial legislation that governs this area, being Section 270(3) of the Municipal Act S.O. 2001, and for issues when the legislation is silent.

3. SCOPE:

The scope of this document is intended to cover all aspects with respect to acquiring goods and services by the Municipality except for the exemptions set forth in Schedule A, herein.



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4. 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 and/or Services from or to that supplier.

“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 Quotations, Request for Quotations, Request for Pre-Qualification, Request for Tender, Request for Proposal, or Request for Expression of Interest.

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

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

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

“Clerk” means the Director, Legislative Services/Clerk 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.

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

“Corporation” means The Corporation of the Town of Shelburne.

“Council” means the elected Municipal council of the Town of Shelburne.



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“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.

“Director of Financial Services” or **“Director of Finance”** means the Municipality’s Treasurer/Director of Financial Services or Designate.

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

“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 and Services.

“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 Town of Shelburne or Designate.

“Municipality” means the Corporation of the Town of Shelburne.

“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



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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 and Services.

“Purchasing” means the process for obtaining Goods and/or Services.

“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 or services. 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 in the policy (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 policy (excluding taxes).

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



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“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.

“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 and Services.

“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 and Services that are unique to a particular vendor and cannot be obtained from another source.

“Solicitation” means any and all forms of solicitation for Goods and Services 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 or services to the Municipality including but not limited to contractors, consultants, vendors, service organizations, etc.

“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.

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



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5. POLICY REQUIREMENTS

PURCHASING SERVICES

The Director of Financial Services/Treasurer or Designate shall have charge of and be responsible for the purchase of all Goods and Services by the Municipality, except as otherwise provided in this policy.

The Director of Financial Services/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 or services in compliance with this policy.

The Director of Financial Services/Treasurer will administer this policy.

Any question involving the meaning or application of this policy is to be submitted to the Director of Financial Services/Treasurer who will resolve the question.

The Director of Financial Services/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

Whereby 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.

SIGNING AUTHORITIES

Signing authorities are approved by the Director of Financial Services/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	Up to \$149,999.99
DEPARTMENT HEAD	Up to \$ 99,999.99
DEPARTMENT SUPERVISORS	Up to \$ 19,999.99
DEPARTMENT STAFF	Up to \$2,499.99 as determined by Department Head

PURCHASING PROCESSES, LIMITS AND AUTHORITY TO AWARD (Schedules A and B)

The Goods and Services listed in Schedule “A” herein are exempt from the purchasing process requirements of this policy.

The following processes, attached as Schedule “B” shall be applied for the procurement and award of Goods, Services, and Construction, not available from pre-existing agreements.

COUNCIL APPROVAL REQUIRED

Despite any other provisions of this Policy, the following procurements, over \$15,000, excluding taxes, are subject to prior Council approval:

- a) Any contract requiring approval from the Local Planning Appeal Tribunal (LPAT)
- b) Any acquisition of goods or services that is not already approved in the current year’s budget, such as items requiring pre-budget approval or post-budget amendments, must be reported to Council in order to have the expenditure authorized via resolution
- c) Where the net revenue amount proposed for acceptance is lower than the Council approved budget
- d) Any contract where the award is not being recommended to the lowest bidder, except for Request for Proposals



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AUTHORITY TO REALLOCATE APPROVED BUDGET FUNDS

- a) To ensure proper expenditure management and budget accountability, each Department Head 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.
- b) Reallocation of funds between Operating Budgets and Capital Budgets is not permitted under any circumstances.
- c) In order to allow purchases to proceed which exceed the approved budget, a Director shall have the authority to reallocate funds, without exceeding the aggregate budget within their control, under the following conditions:

Operating Budget

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

Capital Budget

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



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- iii. 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;
- iv. Revised Bid Award Form must be completed when funds are reallocated;
- v. The funding source must be the same for all accounts affected by the reallocation.

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

CONSTRUCTION CONTRACTS

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 certified cheque, bank draft or money order made payable to the Municipality, is required along with the Financial Securities and Insurance requirements identified within this Policy.

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.

Engineering consultants may be retained under the standard Municipal Engineers Association (MEA) agreement, as modified.

PROFESSIONAL AND CONSULTING SERVICES

The selection and retention of professionals and consultants shall be undertaken in accordance with the procedures as set forth in this policy document.

For repetitive assignments and projects (ie audit, banking, engineering, planning services), the following factors shall be taken into consideration:

- Department Heads shall develop requirements and analyze the long-term benefits of engaging a consultant or professional services on an ongoing basis, or on a long-term multiple year basis for periods not to exceed 5 – 10 years



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- Expressions of Interest may be requested and evaluated based on broad criteria established by the user department. The broad criteria may vary from project to project but should encompass an assessment of the following factors related to the firm being evaluated:
 - Experience and performance on similar projects
 - Knowledge of locality
 - Professional stability, reputation and integrity
 - Multi-disciplinary/specialty capabilities

SPECIFICATIONS

- a) Each user Department shall be responsible for the preparation of plans and specifications with the support of outside professional assistance as deemed necessary, and for providing such plans and specifications to the Department Head for review.
- b) Staff may use the appropriate procurement method for the acquisition of goods and services 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 and Services 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 Department Head shall be advised;
 - ii) the contracted supplier will be considered a consultant and will not be allowed to make an offer for the supply of the Goods and Services;



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- iii) a fee shall be paid, the amount of which shall be determined and agreed upon by the supplier before the service commences; and
- iv) the detailed specifications shall become the property of the Municipality and can be used in obtaining competitive bids.

PROCESSES FOR SPECIAL SITUATIONS

Emergency Purchases More Than \$15,000

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 and Services and time does not permit the CAO to allow the Director of Finance/Treasurer to acquire such Goods and Services, the CAO may make such purchases or authorize the making of such purchases without the involvement of the Director of Finance/Treasurer 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 \$15,000 will be communicated to Council.

Emergency Purchases Less Than \$15,000

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 and Services and time does not permit the Department Head to allow the Director of Finance/Treasurer to acquire such Goods and Services, the Department Head may make such purchases or authorize the making of such purchases without the involvement of the Director of Finance/Treasurer 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 \$15,000 will be communicated to the Director of Finance/Treasurer within one (1) business day of the emergency purchase.



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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 or services. 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

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 and/or Services 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.



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- a roster for Engineering/Professional 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 (ie compliance order)

Negotiation

The Department Head of the user Department 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 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;
- g) When all tenders or bids received fail to meet the specifications or terms and conditions, and it is deemed impractical to recall Tenders or Requests for Quotations or Requests for Proposals;
- h) When the lowest Responsive and Responsible bid received substantially exceeds the budgeted amount for Goods and Services, or is excessive in total cost as compared to the Goods and Services 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;



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- 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 the Director of Finance/Treasurer 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 Director of Financial Services/Treasurer, the Department Heads 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.

CO-OPERATIVE PURCHASING

The Department Head(s) are hereby 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 Department Head(s) satisfying themselves that the host agency will be proceeding to the open market to obtain competitive pricing. Award approvals of all Co - operative Purchasing contracts shall be in accordance with the Purchasing Procedures.



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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.

DIVISION OF CONTRACTS

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

LEASES/LEASE PURCHASES AND RENTAL AGREEMENTS

- The policies governing the purchase of goods and services shall also apply to lease, lease to own, and rental agreements
- Following the completion of the RFQ, RFP or Tender process, the following considerations shall be taken prior to finalizing a lease or rental agreement
 - Who retains title to the equipment at the end of the lease,
 - Estimated value of the equipment at the end of the lease,
 - Estimated remaining useful life of the equipment at the end of the lease, and
 - Estimated buy-out value at the end of the lease
- Legal counsel for the Municipality may be requested to review the terms and conditions of the lease document
- The originating department shall fully describe the equipment to be leased, and indicate the proposed term in number of years, months.
- Lease Purchases or Rental Agreements for the procurement of goods and services must be signed on behalf of the Municipality by the appropriate Department Head and/or Clerk and in the case of tenders or contracts approved by Council, they must be signed by the Mayor and Clerk.



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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.

FINANCIAL SECURITIES AND INSURANCE

The Municipality may require that a Bid be accompanied by a Bid Deposit or other similar security to guarantee that the successful Supplier enters into a Contract with the Corporation.

In addition to the security referred to above, the successful Supplier may also be required to provide:

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

Prior to the commencement of work, the Supplier shall provide to the Corporation proof of insurance in accordance with the Bid Solicitation, satisfactory to the Municipality.

Prior to the Corporation issuing payment to a Supplier, the Supplier shall provide a Certificate of Clearance from the Workplace Safety and Insurance Board confirming all premiums or levies have been paid to the Board to date.

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

PAYMENT FOR GOODS AND SERVICES

The Director of Financial Services/Treasurer is authorized to pay for Goods and Services purchased by Department Head(s) in accordance with this Policy and shall pay for any such Goods and Services unless



otherwise provided in this Policy or within the time commitments specified in the purchasing agreement or contract.

- a) Purchases of Goods and Services may be paid from the user Department budget by use of a Town issued Credit Card or through accounts payable and are in accordance with this Policy.
- b) No prepayment for all or any part of Goods and Services shall be made unless the contract specifically provides for such prepayment.

NO LOCAL PREFERENCE

- a) Except as set forth in (b), no local preference shall be shown or considered in acquiring Goods and Services.
- b) 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.

ACCESSIBILITY

In accordance with current regulations 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 website and specific trade sites 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/or facilities, including self-serve kiosks, where practicable. If the above-mentioned design, criteria, and features for goods and services are deemed impracticable, the Department Head shall provide a written explanation explaining the constraints.



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IN-HOUSE BIDS

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

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 Financial Services/Treasury Department for purposes of administration of the contract during the term of the contract.

CONFLICT OF INTEREST

No Goods or Services shall 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 without express approval by Council.

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



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PERFORMANCE EVALUATION

The Director of Financial Services/Treasurer, 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 Director of Financial Services/Treasurer.

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 Director of Finance/Treasurer by letter or in person. A withdrawal request made by telephone, facsimile or email 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.

ADDENDUM

Where it is deemed necessary by the Municipality to revise the procurement documents prior to closing, the following process shall apply:



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- a) The Municipality will issue any changes/additions/deletions to the quotation/tender/proposal or terms and conditions. Any and all addenda issued by the Municipality shall form an integral part of the document. The cost of complying with the addenda requirement (if any) shall be included in the price submitted by bidders. The Municipality will assume no responsibility for oral instruction or suggestion.
- b) Any and all addenda issued prior to the closing date will be posted on electronic medium or publication in which the original advertisement appeared for downloading by bidders. It is the bidder's sole responsibility to download and review all Addenda and acknowledge that Addenda were downloaded from the Municipality's website, and that the pricing quoted includes the provision set out in such Addenda. Addenda will not be sent to bidders via facsimile, e-mail or any other medium.
- c) Where a closing date has been extended, all bidders shall be advised that any proposals submitted prior to the giving of the extension will be returned upon request.
- d) Where it is deemed necessary by the Municipality to cancel a quotation/tender/proposal, an advertisement will be placed in the electronic medium or publication in which the original advertisement appeared stating that the proposal call has been cancelled and every person who registered for that quotation/tender/proposal shall be notified by electronic mail of the cancellation. Any administrative fee charged for the proposal documents shall be returned to the bidders who paid to receive the documents.
- e) Where a proposal call is cancelled prior to closing, no proposals shall be accepted. All proposals received shall be returned unopened by registered mail or courier with a covering letter.

ERRORS AND IRREGULARITIES

The list of irregularities, shown as Schedule C should not be considered all inclusive. The Director of Finance/Treasurer 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.



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CONTRACT AWARD AND EXECUTION

The Director of Finance/Treasurer or Department Head, 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 Director of Finance/Treasurer or Department Head may:

- a) Grant the successful bidder additional time to fulfill the requirements; or,
- b) Award the contract to the second lowest Bidder and retain their 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 Director of Finance/Treasurer and/or Department Head, the tender deposits of the successful Bidder and the second low bidder shall be returned to them. Performance bonds from the successful bidder shall be retained.

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 Director of Financial Services/Treasurer, within fifteen (15) business days of notice of award posted on the Municipal website.
- b. The Director of Financial Services/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 Director of Financial Services/Treasurer to make a formal request to meet with the CAO.



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- 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.

VENDOR PERFORMANCE MANAGEMENT

The Director of Finance/Treasurer, in conjunction with the user department, may initiate vendor performance management to evaluate and improve the performance of all contractors awarded publicly bid Contracts by:

- (i) pro-actively managing the performance of Contractors during the term of awarded Contracts, and
- (ii) creating a record of past performance for use by the Director of Finance/Treasurer and Department Heads in determining the award for future Solicitations.

6. MONITORING:

Any required changes shall be submitted to Council for consideration and approval. Any changes or revisions to the Municipal Act S.O. 2001, or to the regulations 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 the newly elected Council.

7. 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 and Services;
- Contract Law in Canada;
- Public Procurement Trade Agreements;
- Discriminatory Business Practices Act; and
- Conflict of Interest Act



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8. CONTACT:

Carey Holmes, Director of Financial Services/Treasurer
Telephone 519-925-2600 ext 228
Email: cholmes@shelburne.ca

9. CHANGE HISTORY:

Policy Name	Effective Date	Significant Change	By-Law Number
Procurement Policy	September 9 th , 2019	Replace By-Law 33-2004	53-2019 to adopt



SCHEDULE "A"

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



SCHEDULE “B”

Purchasing Process, Limits and Authority to Award

Amount	Process	Authority	Reporting
Up to \$2,499.99	Open Market Process	Department Staff	No Report to Council
\$2,500 to \$19,999.99	3 Written Quotes	Department Supervisors	No Report to Council
\$20,000 to \$99,999.99	RFQ, RFP, RFT	Department Head	Quarterly Report to Council
\$100,000 to \$149,999.99	RFP, RFT	CAO	Quarterly Report to Council
Over \$150,000.00	RFP, RFT	Council	Resolution from Council
Multi-Year Contracts over \$150,000	RFP, RFT	Council	Resolution from Council

“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 in the policy (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 policy (excluding taxes).



SCHEDULE "C"

Errors and Irregularities

#	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 deposit if less than required by is no more than 10%
3	Conditional Bids (Bids qualified or restricted by an attached statement)	Automatic rejection unless, in the opinion of the Department Head and Director of Finance/Treasurer, the qualification or restriction is insignificant
4	Illegible or obscure Bids, non-initiated erasures, non-initialed alterations	Automatic Rejection
5	Documents, in which all necessary Addenda which have significant financial or scope limitations in the opinion of the Director of Finance/Treasurer and Department Head, have not been acknowledged	Automatic Rejection
6	Documents in which all necessary Addenda which do not have significant financial or scope limitations in the opinion of the Director of Finance/Treasurer and Department Head, 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 do so	Automatic Rejection



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



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#	Irregularity	Response
13	Other minor irregularities	The Director of Finance/Treasurer, in conjunction with Department Head(s) shall have the authority to waive irregularities, which they jointly consider to be minor
14	Any irregularity	Despite all provisions herein contained, the Director of Finance/Treasurer in conjunction with Senior Management Team may waive any irregularity where it considers it to be in the best interest of the Municipality