

**THE CORPORATION OF THE CORPORATION OF THE TOWNSHIP OF TUDOR AND CASHEL
BY-LAW NO. 2018-37**

Being a By-Law to Formally Adopt a Procurement Policy for The Corporation of the Township of Tudor and Cashel.

WHEREAS the *Municipal Act, 2001*, Section 270(1) 3. as amended, requires that a municipality and a local board shall adopt policies with respect to its procurement of goods and services;

WHEREAS the *Municipal Act, 2001*, Section 224 (d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;

NOW THEREFORE, the Council of The Corporation of the Township of Tudor and Cashel enacts as follows:

1. That this policy will provide guidance to both Council and Staff and provide a basis for decision-making relating to the procurement of goods and services;
2. That this policy is designed to be implemented in accordance with the governing legislation. Should there be any incongruences between the policy and the governing legislation, the provisions of the governing legislation will prevail; and
3. That this By-Law shall become effective upon passing.

PASSED THIS 04th DAY OF DECEMBER, 2018.

SEAL

REEVE: LIBBY CLARKE

CLERK: BERNICE CROCKER

THE CORPORATION OF THE TOWNSHIP OF TUDOR AND CASHEL PROCUREMENT POLICY

A policy to establish procurement for The Corporation of the Township of Tudor and Cashel which replaces the provisions of the Procurement of goods and services Policy approved by Council in December of 2014.

1.0 Purpose

The purpose is to establish a policy with respect to the procurement of goods and services for The Corporation of the Township of Tudor and Cashel to provide for fair, transparent and accountable purchasing processes thereby to protect Council, vendors and staff involved in the process by providing clear direction and accountabilities.

2.0 Scope

This document will provide guidance to Council and staff and provide a basis for decision-making relating to the procurement of goods and services. It is designed to be implemented in accordance with the governing legislation.

More specifically, this policy is written in compliance with the *Municipal Act*-specifically Section 224 (d) and Section 270 (1) (3).

Should there be any incongruences between the policy and the governing legislation, the provisions of the governing legislation will prevail.

3.0 Definitions

"Agreement" means a legal document that binds The Corporation of the Township of Tudor and Cashel and all other parties, subject to the provisions of the contract.

"Bid Request" means a written request for bids or a solicitation, which may be in the form of a Request for Proposal or Request for Tender.

"Chief Administrative Officer" means the Chief Administrative Officer for The Corporation of the Township of Tudor and Cashel or designate.

"Council" means the Council for The Corporation of the Township of Tudor and Cashel.

"Department Head" means the employee responsible for direction and operational control of a Department or designate.

"Emergency" means a situation where the purchase of goods and services requires immediate action to prevent or correct dangerous or potentially dangerous safety conditions, further damage, to restore minimum service or ensure the safety of the public.

"Goods and/or Services" means such goods and services as supplies, equipment, property insurance, maintenance, professional and consulting services and service contracts not otherwise provided for.

"Municipality" means The Corporation of the Township of Tudor and Cashel

"Open Market Procedure" means obtaining price quotations from vendors in writing.

"Procurement" means to acquire goods and/or services by purchase, rental or lease.

"Proponent" means the person responding to a Request for Proposal or Tender.

"Single Source" means one vendor is recommended for consideration of the particular goods and/or services based on reasons of function and/or service.

"Treasurer" is the individual appointed by the municipality who is responsible for handling all of the financial affairs of the municipality on behalf of and in the manner directed by Council.

4.0 General Conditions

- 4.1 Council can waive any part of this Policy, or the Policy in its entirety, by resolution for a specific purchase or project.
- 4.2 No requirement for goods and services may be divided into two or more parts to avoid the provisions of this policy.
- 4.3 For the purposes of determining whether a purchase falls within the prescribed value limits, the amount shall be the sum of all costs to be paid to the supplier under the contract, excluding all taxes and less any early payment discount.
- 4.4 The Chief Administrative Officer or initiating Department Head may remove a vendor's name from the list of bidders for a period of up to three years on the basis of documented poor performance, non-performance, or conflict of interest. A written notice of the decision will be provided to the vendor by the Chief Administrative Officer.
- 4.5 The Chief Administrative Officer has the authority to instruct the initiating Department Head not to award a contract and may direct staff to submit recommendations to Council for approval and may provide additional restrictions concerning procurement where such action is considered necessary and in the best interests of the Municipality.

5.0 Procurement Processes To Be Used

- 5.1 Direct Acquisition for goods and services having a value of \$0 - \$1,000.
 - Municipal employees are authorized to purchase goods and services; however, the Department Head of the initiating department must approve the purchase, in advance, in writing
- 5.2 Department Head Approval for goods and services having a value of over \$1,000 and under \$10,000.
 - Department Heads are authorized to purchase goods and services that are included within the Council approved current year budget
- 5.3 Quotation process and Department Head Approval for goods and services having a value of over \$10,000 and under \$25,000.
 - The initiating Department Head shall attempt to obtain three (3) written quotations, in writing, wherever possible and kept on file
 - In the event that three (3) written quotations are not received, the initiating Department Head along with the Chief Administrative Officer shall decide if what quotations have been received are satisfactory to warrant procurement
 - The lowest of any quote may not necessarily be accepted; however, in

circumstances where the lowest quote is not recommended by the initiating Department Head, the Department Head shall provide Council with a report stating why the lowest quote is not being accepted and the purchase shall then be approved by Council. A report to Council is necessary if a contract/agreement is to be executed by the Reeve and Clerk

- 5.4 Request for Proposals or Tendering Process for goods and services having a value of over \$25,000.

Request for Proposals

- Written quotations shall be acquired through the Request for Proposals process and evaluated on the basis of quantitative and qualitative criteria. Request for Proposals are required to be advertised and a reply is required by a designated date and time. Proposal evaluation is done by a team of staff from possibly more than one department, including the Chief Administrative Officer who have relevant expertise for making the evaluation
- A report to Council, endorsed by the Chief Administrative Officer shall be initiated by the initiating Department Head for Council consideration and approval
- Upon approval, the Department Head shall ensure that a legally binding agreement is executed by the Reeve and Clerk

Tender Process

- Tenders shall be advertised with a reply to be received by a designated date and time. Any requested bid deposits, security or bonds must be included with the submission. Replies are delivered directly to the Chief Administrative Officer and are opened at a public tender meeting. If only one tender is received, the Chief Administrative Officer and the initiating Department Head have the option of not opening the bid and closing the call for tender
- A report to Council, endorsed by the Chief Administrative Officer shall be initiated by the initiating Department Head for Council consideration and approval
- Upon approval, the Department Head shall ensure that a legally binding agreement is executed by the Reeve and Clerk
- The initiating Department Head is responsible for maintaining current insurance certificates and Workplace Safety and Insurance Board certificates as called for in the bid documents.

6.0 The "Two-Envelope" Procurement Process

- 6.1 The two-envelope approach is used when the Municipality wants to evaluate the technical and qualitative information of a given proposal without being influenced by prior knowledge of the corresponding pricing information. Proposal evaluation is done by a team of staff from possibly more than one department, including the Chief Administrative Officer who have relevant expertise for making the evaluation
- 6.2 In the two-envelope approach, each proponent must submit qualitative and technical information in a separate sealed envelope (envelope one) and pricing information in a second sealed envelope (envelope two). The contents of envelope one are evaluated and scored according to pre-

determined criteria such as, but not limited to relevant firm experience, project team's qualifications/experience, personnel time allocation, understanding the scope of work, methodology/thoroughness of approach, quality and completeness of proposal submission.

- 6.3 When the scoring of envelope one is completed, then the pre-determined process for moving to envelope two is followed. In some procurement strategies, a minimum score threshold is in place at envelope one, and only proposals which meet or exceed that threshold are eligible to proceed to the opening of envelope two and subsequent price evaluation. If a proposal is not eligible to proceed to price evaluation, the proponent is disqualified from further consideration and the second envelope is returned to the proponent unopened.
- 6.4 For each proposal where envelope two is opened, the bid price(s) are scored according to the pre-determined process. The particular procurement and evaluation strategy will dictate the process for scoring the price and subsequently taking the scores from the envelope one and envelope two processes into account, resulting in a total evaluated score for the proposal. The total evaluated scores are ranked, and the proposal with the highest ranked score is considered the successful proposal, unless Council decides otherwise. In the event of a tie, the pre-determined process for handling a tie is followed.

7.0 Sole Source Procurement

- 7.1 Purchase by negotiation may be adopted, if in the judgment of the Chief Administrative Officer and in consultation with the initiating Department Head any of the following conditions apply:
- Goods and services are in short supply due to market conditions
 - The sources of supply are restricted to the extent that there is not effective price competition, or consideration of substitute is precluded due to any of the following:
 - a. Components or replacement parts for which there is no substitute
 - b. Compatibility with an existing product, facility or service is required
 - c. Specific standards are adopted by Council
 - When non-emergency circumstances would require a vendor to perform an assessment on machinery or equipment to enable the determination of the extent of the required repair, that a pre-qualified vendor may be selected to perform the necessary repairs when the quoted repair price is considered reasonable and in the best interests of the Municipality as determined by the Department Head. The written quote must be less than \$25,000
 - There is documented evidence that the extension or reinstatement of an existing contract would prove most cost effective or beneficial (to a maximum of 10% of the original contract)
 - Work is required at a location where a contractor has already been secured through a tender process, with established unit prices by another party and it is considered to be beneficial and cost effective to extend the unit prices for the work to be completed for the Municipality
 - After the Request For Proposals process has closed, it may be necessary for

discussion to clarify and/or make significant revision(s) to the initially defined requirements of the call for quotations/proposals

- When only one proposal is received through the procurement process and it is impractical to recall the requirements of the call for quotations/proposals

8.0 Emergency Procurement

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

- A threat to public health
- The maintenance of essential Municipal services
- The welfare of persons and/or of public property or
- The security of the Municipality's interests and the occurrence requires the immediate delivery of goods or services and time does not permit for competitive bids

8.2 The above criteria are to be applied on the basis of Emergency Procurement up to \$25,000.

- Wherever feasible, the Department Head shall obtain the prior approval of the Chief Administrative Officer and shall secure by the most open market procedure at the lowest obtainable price any goods and services required

8.3 The above criteria are to be applied on the basis of Emergency Procurement over \$25,000.

- The Department Head shall obtain the prior approval of the Chief Administrative Officer
- An information report shall be submitted to Council explaining the actions taken and the reason(s) therefor following the emergency at the next Regular Meeting of Council

9.0 Operative or Joint Ventures

9.1 The Municipality may participate with other Government agencies or public authorities in co-operative procurement/acquisition ventures or utilize a 'piggy back clause' within public sector contracts, whenever it is determined to be in the best interest of the Municipality to do so.

10.0 Maintenance of Integrity of Procurement Processes

- Evaluation criteria shall be established early in the procurement process and be made known to all prospective bidders
- Suppliers shall be required to provide evidence of satisfactory insurance coverage
- Suppliers shall provide a Certificate of Clearance in respect of the Workplace Safety and Insurance Board
- Suppliers shall be required to file appropriate financial security to guarantee completion of the contract and satisfaction of all related obligations
- All professional and consultant services retained by the Municipality shall disclose to the Municipality prior to accepting an assignment, any potential conflict of interest.

If such a conflict of interest does exist, the Municipality as directed by the initiating Department Head may, at its discretion, withhold the assignment from the consultant until the matter is resolved. Furthermore, if during the assignment, a consultant is retained for another client giving rise to a potential conflict of interest, the consultant shall inform the Municipality and the Municipality shall take appropriate steps to work with the consultant to resolve the issues of conflict of interest

- Late bids and unsealed bids shall be automatically disqualified

11.0 ACCESSIBILITY

- 11.1 In acquiring goods and services for the Municipality, municipal staff shall consider and have regard to disability accessibility issues as they may reasonably pertain to such acquisitions or goods and services.
- 11.2 If it is not possible and practical to do so, the Township of Tudor and Cashel will provide an explanation on request. Explanations shall be forwarded by the appropriate Department Head in an accessible manner and shall be copied to the Clerk's office for further review so that such issues shall be incorporated into the accessibility plan to prevent and remove such barriers.