

Municipality of the County of Colchester
Purchasing and Tendering for Goods, Services and Construction Projects Policy

Purpose

To ensure that direction is given and an equitable process is in place for the acquisition of goods, services and construction projects, by County departments.

Policy

1. Procurement of goods, services, and construction projects shall be undertaken through a competitive bid process in either of two ways, depending on the dollar value:
 - 1) Bid by invitation
 - 2) Public tender

2. a) Council reserves the right to exempt a good or service from the provisions of this Policy. Staff may put forward recommendations as appropriate.

- b) Where possible, local suppliers will be given preference, as outlined in the awarding of bids and tenders.

- c) The Director of Public Works shall have the right to establish measures of performance for successful bidders and to refuse to accept bids from suppliers/contractors who have failed to meet such measures in previous performance of contracts with the Municipality.

3. **In this Policy:**
 - a) "Public Tender" includes "Requests For Proposals" ("RFP") as well as traditional tenders and "tender" in this document includes a proposal submitted under an RFP process, unless the context requires otherwise.

 - b) Where the value of goods, services, or construction projects dictates what process to use, contract values are to be estimated by staff.

 - c) Where the value of a goods, services or construction projects contract dictates what party makes the award, and where a submitted tender or RFP is based on per unit pricing, the value of the goods and services contract is to be based on calculations by staff using estimates of expected volumes and in all other circumstances in which the value of a contract for goods and services is not readily calculable with certainty, staff is to estimate the contract value and, in particular, in regards to contracts involving ongoing supply of goods or services over the term of the contract, the value for purposes of this Policy shall mean the value over the entire term of the contract.

 - d) Contracts for goods, services, or construction projects not stipulated as having a defined term shall be deemed to be annual contracts and shall be awarded each year.

4. **Bid by Invitation Process**

- a) Where the value of goods, services, or construction projects falls below \$500, formal comparison pricing is not required. From time to time, some comparisons are to be done to ensure pricing is competitive.
- b) Where the value of goods, services, or construction projects is between \$500 and \$5,000, three verbal quotations will be required. The quotations are to be recorded and kept on file.
- c) A minimum of three bids are to be solicited in written form as follows:
 - i) Where the value of goods is between \$5,000 and \$25,000;
 - ii) Where the value of services is between \$5,000 and \$50,000;
 - iii) Where the value of construction projects is between \$5,000 and \$100,000.

The written bids are to be kept on file.

- d) The CAO can approve exceptions to the bid by invitation section of the Policy for the following reasons:
 - i) Certain good(s), services, or construction projects may only be provided by one qualified supplier or in limited cases, only a few suppliers are known in which case discretion can be given for inviting bids that normally would exceed \$25,000;
 - ii) Further phases of a similar project or service may best be completed by a supplier familiar with the service or project;
 - iii) An emergency may require immediate action;
 - iv) Senior management may deem that tenders should be used for goods, services, or construction projects that would qualify for the bid by invitation process.

5. **Public Tender**

- a) Public tender is to be used when the cost of the good exceeds \$25,000, cost of service exceeds \$50,000 and cost of the construction project exceeds \$100,000.
- b) The Municipality is subject to the provisions outlined in the Agreement on Internal Trade (AIT) and Atlantic Procurement Agreement (APA) for public tenders. The tender notification in such circumstances is to be placed on the Municipality's website and linked to or put on the Procurement Services website for the Province of Nova Scotia. It is encouraged that arrangements may also be made for alternate notifications such as trade websites, newspapers, and journals.

- c) When seeking professional services or goods or services or construction projects involving alternate specifications for achieving a desired result, the use of RFP's is encouraged. The RFP document shall generally describe the scope of the good or service or construction project sought, and would invite written proposals from prospective suppliers to address the requirements outlined in the RFP.
- d) Tender and RFP documents are to include specifications, instruction to bidders, general conditions and drawings or maps if required. To ensure consistency of tendering practices, documents are to be reviewed by the CAO prior to issuance.
- e) Tender and RFP documents may contain measurement clauses for expected performance of the contract. The successful bidder's failure to meet such stated expectations may result in rejection of future bids, and/or exclusion from future bidding opportunities.
- f) Tender and RFP documents for construction projects which require trucking services, and which are estimated to exceed \$1,000,000, must contain a provision for prospective bidders regarding use of the Colchester County Truckers Association as further described by clause 5(f), except where trucking services are required for on-site trucking only.
- g) Where construction projects requiring off-site trucking services are estimated to exceed \$1,000,000, and pursuant to clause 5(e) tender and RFP documents must contain a provision for prospective bidders regarding the use of the Colchester County Truckers Association, the provision must:
 - i) indicate that the "80-20 rule" will apply, which provides that a contractor may contract for the first two trucks from any source but must use the Colchester County Truckers Association for the next eight trucks, and if more than ten trucks are required, the same cycle must be repeated; and,
 - ii) indicate that as then "80-20 rule" applies, prospective bidders must take this into account when developing their cost estimates by incorporating the current applicable rates as established by the Department of Transportation and Infrastructure Renewal for hauling.

6. **Authority to Award Contract**

- a)
 - i) Whenever the Municipality procures goods for under \$25,000, services for under \$50,000 and construction projects for under \$100,000, the amount of local preference must be clearly set out and defined to prospective bidders. A margin of 2% in the bid price shall be allowed in favour of local suppliers, to a maximum of \$2,000. Local suppliers include businesses physically located within the boundaries of Colchester County, including the Towns of Truro and Stewiacke.

- ii) An exception to this Policy is allowed if other criteria as deemed by the CAO are more critical to the awarding of the good, service or project than the bid price alone. These criteria may include vendor's past performance, delivery time, quantity, servicing, or quality of goods and services and construction projects.
- b) Where the value of the good or service or construction project falls below \$500, the award may be made by the responsible senior manager, manager, department head, supervisor or foreman, or employee designated by one of the preceding positions.
- c) Where the value of the good or service or construction project is between \$500 and \$5,000, the award may be made by the responsible senior manager or manager or by an employee designated by one of the preceding positions.
- d) Where the value of goods and services and construction projects is between \$5,000 and \$25,000, the CAO may designate a senior manager to award the contract or the CAO may award the contract.
- e) The CAO has authority to award the contract:
 - i) Where the tender or RFP is less than \$100,000 for goods or services over the term of the contract (greater than five years);
 - ii) Where the tender or RFP is for between \$100,000 and \$250,000 for goods or services over the term of the contract and the contract is of five years or less in duration;
 - iii) Where the tender or RFP is less than \$250,000 for a construction project;
 - iv) Where Council or the Executive Committee authorizes the CAO to award due to special circumstances such as the time sensitivity or urgency of a project or because the award is for professional services such as legal, audit, banking and engineering.
- f) Where staff does not have the authority to award a contract, the award will be made by Council, but nothing in this Policy precludes staff from seeking advice or direction from Council in relation to the awarding of a contract or from recommending that Council itself award a contract notwithstanding that the contract could be awarded by staff.
- g) In the event of a conflict of interest on the part of a staff member otherwise authorized to award a contract, the award shall be made by the person to whom the conflicted staff member normally reports, and the conflicted staff member shall not participate in the process in any manner.

7. Time Frames

Contracts for goods and services shall be re-tendered at least once every five years unless an agreement prevents this action, and contracts may be re-tendered more frequently.

8. Lease Arrangements

Lease arrangements are subject to the provisions of this policy.

9. General Procedures for Public Tenders

- a) Potential participants are to be notified by posting on the Municipality's website and other means of soliciting potential participants, such as the use of other websites, newspaper advertising, and/or direct contact may also be utilized.
- b) Tender specifications shall include:
 - i) Issues or criteria that will be used for selection of a successful bidder or proponent, at the discretion of the Director of Public Works;
 - ii) Any and all appropriate privilege and discretion clauses, included but not limited to notice of the right to refuse bids from prospective bidders based on past performance in previous contracts awarded by the Municipality;
 - iii) The location for delivery of bids or proposals;
 - iv) The means of delivery of bids or proposals must be identified, e.g., whether faxes or emails are acceptable in addition to "hard copy" submissions; and,
 - v) The time and date of closing.
- c) After the closing time for tenders, tenders shall be opened in the presence of at least one member of senior management and one other employee. The opening of tenders is a public process and at the tender opening, the name of each bidder or proponent, the contract price and compliance with minimum criteria such as bid bonds, will be announced to the public, except to the extent otherwise stated in the call for tenders or the RFP. Within a reasonable period after the closing date for tenders, the party responsible for awarding the contract will consider the tenders, assess compliance with the detailed criteria, obtain any necessary input or recommendations from affected departments or staff and will make the award or, with the approval of the CAO or Council (depending on which party has authority to award the contract), make a decision not to award the contract and, may or may not re-tender or pursue permissible alternate means of obtaining required goods or services or construction projects.
- d) All bidders or proponents will be notified of the decision.

- e) After the awarding of a tender, the submissions of all proponents or bidders are open for public inspection except to the extent otherwise stated in the call for tenders or the RFP.
10. The contents of this Policy are subject to any legal requirements, including but not restricted to, the provisions of any valid and applicable statute or of any valid and applicable contract.

Clerk's Annotation for Official Policy Book

Date of Notice to Council Members
of Intent to Consider (7 days minimum): August 10, 2020

Date of Passage of Current Policy: August 27, 2020

I certify that this Policy was adopted by Council as indicated above.

Rob Simonds
Municipal Clerk

September 15, 2020
Date

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