

THE CORPORATION OF THE TOWNSHIP OF MCGARRY

BY-LAW # 2018-33

BEING A BY-LAW for The Township of McGarry
governing procurement policies and procedures.

WHEREAS Section 271 of the Municipal Act, 2001 imposes upon municipalities the obligation to adopt policies with respect to the procurement of Goods and Services.

AND WHEREAS, The Corporation of the Township of McGarry deems it expedient to establish comprehensive purchasing policies and procedures which, purchasing policies and procedures shall be maintained by the Clerk-Treasurer, and which purchasing and procedures shall be subject to approval and periodic review by Council;

AND WHEREAS said purchasing policies and procedures shall be subjected to periodic review by the Clerk-Treasurer or his/her designate and updated as required;

AND WHEREAS any change in the threshold values contained in the purchasing policies and procedures shall be approved by resolution of the Council;

AND WHEREAS the Council of the Township of McGarry has by resolution adopted and authorized the enactment of this By-Law;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of The Corporation of the Township of McGarry enacts as follows:

1.0 SHORT TITLE

This By-Law may be cited as the "Purchasing By-Law"

2.0 PURPOSES, GOALS AND OBJECTIVES

The purpose, goals and objectives of this By-Law and of each of the methods of procurement authorized are:

- a) To encourage competition among suppliers;
- b) To maximize savings for taxpayers;
- c) To ensure service and product delivery, quality, efficiency and effectiveness;
- d) To ensure fairness among bidders;
- e) To ensure openness, accountability and transparency while protecting the financial best interests of the Township of McGarry.

3.0 POLICY STATEMENT

All purchase of goods and services for the Township of McGarry shall be subject to the provisions of this By-Law. Prices and Authority Levels as stated in this By-Law are intended to be before tax amounts.

In the event a Department chooses to engage a Consultant to coordinate the procurement of goods, work and services, then it shall be the responsibility of the respective Department Head to ensure that all conditions of the By-Law are adhered to.

All contractors/suppliers that will be performing work on Township property must provide evidence of liability insurance in the amount of \$2,000,000.00 and active Workmen's Safety Insurance Board status to be eligible for specified works.

4.0 DEFINITIONS

In this By-Law

- a) "Bid" shall mean a specific price for specific works.
- b) "Buyers(s)" shall mean those individuals that, in the normal course of their duties, procure goods and services for the Corporation. They may include individuals that are designed as having buying activities as duties of their position.
- c) "Clerk-Treasurer" shall mean the individual responsible for providing professional procurement expertise to the Corporation in support of the application and compliance of the purchasing By-Law and procurement policies and procedures and the word "her" shall in all cases mean her or his and "she" shall in all cases mean she or he.
- d) "Contract" shall mean a written agreement authorized or ratified by the appropriate authority and executed by the Mayor and the Clerk-Treasurer.
- e) "Corporation" shall mean The Corporation of the Township of McGarry.
- f) "Department" shall mean each department and their divisions of the Township of McGarry.
- g) "Emergency" shall mean a situation where serious delay may affect the life and health of the general public, prevention of serious damage, and the restoring of essential service levels to a minimum level.
- h) "Expanded Works" shall mean approved construction projects in which an unexpected problem arises during construction, which does not expand the scope of the project but is necessary in order to deliver the original approved work. Any expanded works that are above 10% or \$10,000.00 of the original project costs must receive Council approval.
- i) "Expression of Interest" shall mean a call by the Township to suppliers to express interest for the provision of alternate options, which cannot be fully defined or specified at the time of the request, and shall include development proposals.
- j) "Forms" shall mean the standard documents as provided as part of the purchasing guidelines for purchasing and contract administration purposes.
- k) "Goods" shall include all supplies, materials, equipment, general maintenance and service construction contracts, construction maintenance, food, drugs and the procurement of professional services.
- l) "Invitational Tender" shall mean a request for details on the supply of goods or services, greater than \$5,000.00 and less than \$25,000.00. Two or more written tenders should be obtained. When the estimate value of the works is in excess of \$25,000.00, this may be administered as a 'Public Tender'
- m) "Public Tender" shall mean a publicly advertised solicitation of bids opened in public. A public tender may be called for goods or services at a value of \$25,000 or greater and may be used for values less than \$25,000 when deemed appropriate by the pertinent authority.

- n) **"Quotation"** shall mean a request for prices on specific goods and/or services less than \$25,000.00.
- o) **"Single Source"** shall mean that there may be more than one source in the open market but for reasons of function or service only one vendor is recommended for consideration of the particular goods and/or services.
- p) **"Sole Source"** shall mean there is only one known source of supply of particular goods or services, or a Contractor or Supplier retained under agreement to provide a service.
- q) **"Time-Sensitive Works"** shall mean work for which the timing to initiate and/or complete the work is paramount but the time available to follow normal procedures is insufficient.
- r) **"Township"** shall mean The Corporation of the Township of McGarry.

5.0 APPROVAL LEVELS

- 5.1 Formal approval of the annual budget constitutes financial approval to proceed with the purchase subject to any scheduling or priority considerations as may be deemed necessary by Council and as outlined by the Purchasing Policies.
- 5.2 Prior to the passing of the annual operating budget, each Department shall be allowed an interim appropriation of fifty percent (50%) of the previous year's approved operating budget, and such interim appropriation shall be deemed to be for routine operating and recurring expenditures or statutory purposes unless otherwise directed by Council.
- 5.3 Approval Levels:
 - i) **Up to \$1,000.00** - assistants and others designated by Department Heads
 - ii) **Up to \$10,000.00** - Clerk-Treasurer and Department Heads as designated
 - iii) **Over \$10,000.00** - Council Approval through Budget or specific Resolution
 - iv) **Sole source** - Clerk-Treasurer or Department Head

6.0 APPLICATION

- 1) The procedures in this By-Law shall be followed to Award a Contract or to recommend to Council that a Contract be Awarded
- 2) The procurement of legal services shall be contracted for by the Clerk-Treasurer
- 3) The purchase of Goods and services listed in Schedule "A" to this By-Law may be made provided that sufficient funds are available and identified in appropriate accounts within Council Approved Budgets
- 4) For all purposes of this By-Law and this Section, all references to Council shall mean the governing body of The Corporation of the Township of McGarry.

7.0 PROCUREMENT PROCEDURES

The Clerk-Treasurer shall establish purchasing procedures consistent with the Purposes, Goals and Objectives set out in this By-Law relating to:

- a) The form, content and use of forms, whether electronic or printed, including requisitions, purchase orders, bonds, letters of credit and other forms of guarantee or surety, tender, proposal and other contract documents;
- b) The identification of those Goods, Services or Construction, which, are more effectively acquired through cooperative purchasing;
- c) Any other aspect of process or procedure not specifically provided for in the By-Law

The following purchasing procedures shall apply to the purchase of Goods and Services:

- 7.1 Subject to any direction that may be given, the Buyer(s) shall decide the method of source selection which shall be employed to obtain the most favorable price, having regard to the nature or importance of the contemplated work, the urgency of the requirement, and general trade practice and market conditions.
- 7.2 The Buyer(s) is authorized to place orders on behalf of Departments for goods and services from such suppliers and upon such terms and conditions as deemed appropriate by the pertinent authority, subject to the approvals listed in Section 5.3. In awarding of a contract, the Buyer(s) shall not be bound to accept the lowest bid and may award to another bidder if, in his/her discretion, having regard for delivery time, service and quality of goods, that it would be in the best interest of the Corporation. If delivery time, service and quality of goods are equivalent however, the lowest bid shall be accepted.
- 7.3 In the case of urgency the Department Heads are delegated the authority to approve tenders and award contracts when all of the following conditions have been satisfied:
 - When there is a sufficient approved budget;
 - When the lowest tender is accepted;
 - When at least three tenders have been received
- 7.4 When identical low bids are received, the Department Head or designate, shall determine the low bidder on the basis of a coin toss, conducted in the presence of the tied bidders.
- 7.5 Notwithstanding the provisions of this By-Law, purchase of goods, works and service may be made at the approval of a Department Head or his designate, in the case of an emergency. The immediate purchase must be essential to prevent delays in the work of any user group, which might involve additional cost of danger to life and damage to property. In all cases, an Information Report to Council shall be written by the respective Department Head setting out the nature of the emergency and the necessity of the action taken pursuant to this clause.

8.0 CONTRACTURAL AGREEMENT

- 1) The Award of Contract over \$500 shall be made by way of an agreement, or as a Purchase Order.
- 2) A Purchase Order is to be used when the resulting Contract requires only the Township of McGarry's standard contractual terms and conditions.
- 3) A formal agreement is to be used when the resulting Contract is complex and will contain terms and conditions other than the Township of McGarry's standard contractual terms and conditions.
- 4) It shall be the responsibility of the Manager in charge of the particular Bid Solicitation, with the Treasurer and/or Legal Counsel to determine if it is in the best interest of the Township of McGarry to establish a formal agreement with the supplier.
- 5) Where it is determined that a formal agreement is required, the formal agreement shall be reviewed and approved for execution by the Director of Legal Services, or their designate.
- 6) Where a formal agreement is required, the Manager shall execute the agreement in the name of the Township of McGarry.
- 7) Where a formal agreement is not required, the Agent shall issue and execute a Purchase Order incorporating the relevant terms and conditions.

9.0 ESTABLISHING PRICE RANGE:

The purchasing methods for the purchase of Goods, Services or Construction are listed in Schedule "B".

9.1 PURCHASES NOT EXCEEDING FIVE HUNDRED (\$500.00) DOLLARS

- 1) 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 \$500.00 or less. Permanent full-time staff may sign for purchase up to \$500.00.
- 2) Purchases made pursuant to this Section shall be made from the competitive market place wherever possible and may be made by using an "Approved Invoice, Petty Cash, or Purchase Order.
- 3) All petty cash fund disbursements shall be evidenced by vouchers and shall be available for auditing purposes through the Clerk-Treasurer.

9.2 PURCHASES BETWEEN FIVE HUNDRED (\$500.00) DOLLARS AND TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS

- 1) Purchasing requirements for Goods, Services or Construction having an estimated Total Acquisition Cost between \$500.00 and \$25,000.00 may be made by using a Purchase Order.
- 2) In appropriate circumstances, the Request for Proposal or the Request for Tender processes may be utilized for the purchase of Goods, Services or Construction in this Total Acquisition Cost range.

- 3) The procedure used to purchase the Goods, Services or Construction in this Total Acquisition Cost range shall demonstrate that Fair Market Value was achieved.

9.3 PURCHASES EXCEEDING TWENTY- FIVE THOUSAND (\$25,000.00) DOLLARS REQUEST FOR TENDER.

- 1) A Request for Tender shall be used for purchases exceeding \$25,000.00 where all of the following criteria apply:
 - a) Two or more sources are considered capable of supplying the requirement;
 - b) The requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria;
 - c) It is intended that the Lowest or any Compliant Bid will not necessarily be accepted without negotiations.
- 2) The manager in charge of the Bid Solicitation or the Agent, on behalf of such Manager, may Award Contracts emanating from a Request for Tender provided that:
 - a) The Award is to a Compliant Bidder;
 - b) Sufficient funds are available and identified in appropriate accounts within Council Approved Budgets
 - c) The provisions of this By-Law are complied with
- 3) The Manager or Agent shall follow the provisions of section 8 regarding the form of contract required to complete the purchase.

10.0 REQUEST FOR PROPOSAL

- 1) A request for proposal shall be used where one or more of the criteria for issuing a Request for Tender cannot be met such as:
 - a) Owing to the nature of the requirement, suppliers are invited to propose a solution to a problem, requirement or objective and the selection of the supplier is based on the effectiveness of the proposed solution rather than on price alone; or
 - b) It is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement.
- 2) Where the contract price is anticipated to be \$100,000.00 or greater and the Request for Proposal method of procurement is utilized, the Agent shall be a member of the committee formed to evaluate the response to the Request for Proposal.
- 3) Every Request for Proposal shall contain an evaluation grid.
- 4) The agent shall maintain a list of suggested evaluation criteria for assistance in formulating an evaluation grid, which criteria may include, but are not limited to, factors such as approached, equipment and facilities, experience and qualifications, methodology, past performance and scheduling, price and strategy.

- 5) The manager in charge of the particular Bid Solicitation or the Agent, on behalf of such Manager, may Award Contracts emanating from a Request for Proposal provided that:
- a) the estimated Total Acquisition Cost of the Goods, Services or Construction does not exceed \$100,000.00
 - b) the award is to be made to the supplier meeting all mandatory requirements and determined, by reference to an evaluation grid, as providing best value
 - c) sufficient funds are available and identified in appropriate accounts within Council Approved Budgets
 - d) the provisions of this By-Law are complied with.
- 6) The manager and agent shall follow the provisions of Section 8 regarding the form of contract required to complete the purchase.

11.0 GUARANTEE OF CONTRACT EXECUTION AND PERFORMANCE

The agent may require that a Bid be accompanied by a Bid Bond or other similar security to guarantee entry into a Contract. Unless otherwise specified, in circumstances where a Bid Bond or other security is required, the refundable deposit requirements for Requests for Tenders and Requests for Proposals shall be as follow:

| ESTIMATED TOTAL ACQUISITION COST | MINIMUM DEPOSIT REQUIRED |
|----------------------------------|--------------------------|
| \$15,000.00 TO \$25,000.00 | 5% |
| Greater than \$25,000.00 | 10% |

12.0 TENDER BID PROCESS

The following bidding procedures shall apply to the purchase of all types of goods, works and services.

For all tender the initiating Department shall be coordinated with the Clerk-Treasurer to ensure and confirm:

- Completeness of documentation;
- Advertisement arrangements;
- Closing dates and tender opening schedule;
- Vendor contacts for information

Note: When stipulated, the Township requires that contractors/suppliers performing work on Township property provide evidence of liability insurance in the amount of \$2,000,000. and active Workmen's Safety Insurance Board status to be eligible for specified works.

12.1

A) Establishment of File

A file shall be created for all tenders that shall be maintained and include the following:

- The tender name and number;
- A copy of the "Tender Received" list;
- A photocopy of the bid security deposit;
- A copy of the liability insurance documentation and WSIB status;
- A copy of the newspaper add and invoice;
- A copy of the tender documents including any plans and specifications;

- Attendance, an analysis of the bids opened and prepared motions for the consideration of Council/Committee;
- A copy of the letter notifying all bidders of the award and any other correspondence to the bidders;
- A true copy of the motion to award the tender, and
- A copy of any inspection reports.

B) Advertising

Public Tenders shall be publicly advertised on the Website, or in a newspaper with distribution in the municipality.

Requests for Quotations may be publicly advertised.

C) Release of Information to Bidders

Upon request of a prospective bidder, the Buyer(s) or Designate(s) shall supply the following material for each contract:

- i) One copy of the Official Tender Bid Form; and
- ii) Return envelope identification label.

Submission material, e.g. specifications, plans, profiles, etc.

Note: When a fee for submission materials/documents is required, it shall be paid to the Township. When a fee is refundable it will be returned when submission material/documents are returned in good order.

D) Recording and Contract of Submission Material

The Buyer(s) or Designate(s) shall maintain a list of Prospective bidders for issuing submission material/documents.

Note: Names and addresses must be recorded when procurement documents are released to facilitate distribution of addenda and when necessary, to extend or cancel a tender call.

E) Preparation of Addenda

Interpretations should be made in reply to queries from bidder only, in the form of a written addendum.

When it becomes necessary to revise, delete, substitute or add to specifications for tender call, the Buyer(s) or Designate(s) shall coordinate the issuance of an addendum or cancel the tender call.

F) Notification of Addenda to Contractor/Suppliers

A copy of each addendum shall be forwarded to each contractor/supplier who obtained bid forms for the contract. A copy of the addendum notice shall also be stapled to each bid form not yet distributed. In the case of those who have already submitted, they will be informed and given a chance to adjust their tender where time permits.

G) Notification to Contractors/Suppliers of Cancellation of Tender Call

Each contractor/supplier who received bid documents shall be notified by the Initiating Department of the cancellation of the Tender Call.

H) Return of Submissions of Cancellation of a Tender Call

When a tender call is cancelled, no bids will be accepted. Any submissions inadvertently received shall be returned unopened to the contractor/supplier by hand or by registered mail, with a covering letter.

I) Notification to Contractors/Suppliers of Extension of Time

Each contractor/supplier who received documents shall be notified of the Extension of time.

J) Disposition of Tender Bids when Closing Date has been Extended

When the closing date of receiving bids has been extended, bids already received shall be handled as follows:

If the extension of time is four weeks or less, the contractor/supplier shall be advised that his/her bid will be returned upon request.

If the extension of time is four weeks or more, all bids shall be returned unopened. For this section, all communications shall be by registered mail.

12.2 Submissions Requirements

A) Tender Bid Requirements

All tender Bids shall either be mailed or delivered to the Clerk-Treasurer or his designate. Tender Bids are required to conform to the conditions listed below:

- a) The correct Tender Bid Form, as supplied by the Township must be used and in the possession of the Clerk-Treasurer or his designate, on or before the Closing Date and Time. **TENDER BIDS RECEIVED AFTER THE CLOSING TIME WILL NOT BE CONSIDERED.** (Additionally, facsimile or email submissions will not be considered unless otherwise stated.)
- b) The Tender Bid must be legible, written in ink or typed, with the unit price for each item and other entries clearly shown, unless the bid form specifically permits otherwise.
- c) The Tender Bid must not be restricted by a statement added to the Tender Bid Form or a covering letter, or must not have alterations to the Tender Bid Forms, unless requested by the Township.
- d) Adjustments by telephone, facsimile, email or letter for a bid already received will not be considered. A Bidder desiring to make adjustments to a bid must withdraw the submission and / or supersede it with a later bid offer.
- e) The submission form must be signed and initialled in the space(s) provided on the form, with the signature of the bidder, or of a responsible official of the contractor/supplier bidding. If a joint bid is submitted, it must be signed on behalf of each of the bidders, and if the signing authority for both bidders is vested in one individual, he/she shall sign separately on behalf of each bidder. In the case of an incorporated company, the corporate seal must be affixed on the bid form.
- f) Erasures, overwriting or strike-outs must be initialled by the person signing on behalf of the contractor/supplier bidding.
- g) Tender bids must be accompanied by a certified cheque, bank draft, money order and/or bid bond made payable in the amount of 10% of the Total Bid price to The Corporation of the Township of McGarry, equal to or greater than the amount specified in the submission, **AND MUST BE ENCLOSED IN THE SAME ENVELOPE AS THE TENDER BID.** Proof of Bonding must be furnished before a contract is awarded, no later than 10 days following the award of the tender.

B) Failure to Observe Tender Bid Requirement

If any of the Tender Bid requirements (Section 12.2 A) have not been met, the bid shall be considered to be improper and will not be considered.

C) Submission Material

The requirements of Sections 12.2 A shall be included as part of the submission material.

D) Receiving of Tender Bids

a) Submission Box

A locked box shall be maintained under the control of the Clerk-Treasurer or his designate, for the reception and safekeeping of the Tender Bids.

b) Time and Date Stamping and Recording the Tender Bids

When a Tender Bid is received, the envelope shall be time and date stamped. If a time stamp is not available, the time received shall be noted in ink and initialled by the Clerk-Treasurer or his designate. Receipt of each bid shall be recorded. Submissions shall be deposited unopened in the proper locked submission box. The bids shall be deemed received when the envelope has been stamped with the time and date of receipt by the Clerk-Treasurer or his designate.

c) Late Submissions

Regardless of the time a Tender Bid is received, the envelope shall be time and date stamped. If the Tender Bid is for a contract already closed, it shall be returned unopened to the bidder. If a Tender Bid is to be returned by mail, it shall be accompanied by a covering letter.

d) Action on Correspondence Pertaining to Adjustments, Corrections or Restrictions to a Tender Bid.

Any correspondence, pertaining to adjustments, corrections or restrictions to a bid, which is received with a bid, but outside the submission envelope, or is received after a bid has been submitted, but prior to closing time, shall not be considered. Depending on the time available the bidder shall be advised by mail or phone of the withdrawal procedures.

12.3

A) Withdrawal of Bids Prior to Opening

A contractor/supplier, who has submitted a Tender Bid, may request that it be withdrawn. Adjustments or corrections to a submission will not be allowed. The withdrawal shall be allowed if the request is made prior to the closing time for the contract to which it applies. Withdrawal requests must be directed to the Clerk-Treasurer of his designated by letter, facsimile, email or in person. Telephone requests shall not be considered.

When withdrawals are made in person, the Clerk-Treasurer or his designate shall obtain a signed withdrawal confirming the details. If the person is other than a Senior Official of the Company and for letter or facsimile withdrawals, or emails, the authenticity of the request must be confirmed by telephoning a responding Official of the company.

Withdrawal requests received after the Tender Bid closing time will not be allowed. The party concerned shall be informed that the withdrawal request arrived too late for consideration. However, when the bids are read out at the bid opening, and if it is the lowest bid on the contract, the lowest bidder may then proceed in accordance with Section 12.3C i)

Note: Withdrawal of a bid prior to the closing date does not disqualify a bidder from submitting another offer on the same contract.

B) Withdrawal of Submissions during the Opening

At the conclusion of the reading out of bids on a contract, a low bidder may withdraw any of his/her remaining bids on other contracts. Withdrawn bids under this procedure cannot be reinstated.

C) Opening of Submissions

a) Public Opening of Submissions

Opening shall be open to the public

b) Tender Award Committee

All tenders shall be opened in the presence of the presence of the Tender Award Committee comprised of at least three members including; Clerk-Treasurer or his designate, a member of Council and a recording secretary.

c) Action to 'Unknown' Bids at Opening

Any bid that does not have the proper documentation on the envelope shall be opened and placed with the appropriate group.

d) Action on Correspondence found Enclosed in Submission Envelope

If correspondence is found enclosed with a bid in the envelope, which in the opinion of the Clerk-Treasurer or his designate could qualify the bid in any way, that submission shall initially be considered improper and shall be so noted in the record. The correspondence and the bid shall be referred to the Clerk-Treasurer or his designated for decision as to the acceptance or rejection.

e) All Bids Received Must be Accounted For

When the bids have been opened and sorted, the Clerk-Treasurer or his designate shall check the listing of bids received, and the number opened to ensure that all submissions are accounted for. If a discrepancy occurs, the opening proceedings shall be delayed until all bids have been accounted for.

f) Reading Out of Bid Amount, and Listing of Information

When all bids have been accounted for, the Clerk-Treasurer or his designate shall announce for each project, the bid number, and the number of bids received, the name of the bidder, and total bid amount, simultaneously recording the name of each bidder, the bid amount and the deposit cheque amount on a bid opening form.

g) Action when Correspondence Requesting Withdrawal Attached to Bid

When, during the reading out of submissions, the Clerk-Treasurer or his designate receives a bid that has correspondence requesting withdrawal attached, he shall read out the bid number and the bidder's name and indicate to those in attendance that the bid is one previously announced as withdrawn at the request of the bidder. The bidder's name for each withdrawn bid shall be recorded immediately following the name of the bidders whose submissions will be considered, noting the method and date of withdrawal.

h) More than one Submission under the same name

During the reading of the tenders the Clerk-Treasurer or his designate shall check for more than one bid under the same name (without a notice of withdrawal). If this situation occurs, each bid shall be documented and referenced in a manner as "A", "B", "C", etc., and shall be dealt with as normal bid.

i) Preparation of Notice of Withdrawal of Submission

A contractor/supplier (read out aloud as low bidder on a previous bid) who desires to withdraw a bid(s) during the opening, shall attest in writing to his/her identity and state the contract(s) on which he/she desires to withdraw. The withdrawal of the bid must be signed by the contractor/supplier. This notice must be handed to the Clerk-Treasurer or his designate before reading out the first bid on the contract(s) to which applies.

The Clerk-Treasurer or his designate shall not read out the bid amount of a withdrawn submission.

Note: *A contractor/supplier who withdraws a bid on the strength of being read out as low bidder on a previous contract, does not have the right to reinstate the withdrawn bid if subsequent checking proves that his bid on the previous contract was not in fact, low.*

D) Checking Bids

The submissions will be checked to determine whether;

- (i) All requirements have been met;
- (ii) All unit prices have been correctly extended, and
- (iii) The extensions have been correctly totaled.

12.4 Award Process

A) Basis of decision on acceptance or rejection of improper tender bids

Tender bids, which fall within the following categories, shall be rejected.

a) Late Bids

Must be rejected and will not be considered

b) Incomplete Bid

Part bids must be rejected, except when the instruction clearly states that an award may be made for individual items (e.g. Contracts such as equipment rental or some material contracts, which are in effect several individual contracts combined).

c) Bid not signed

Bids that are not properly signed and sealed must be rejected.

d) Erasures, Overwriting or Strikeouts not initialed

Bids where erasures, overwriting or strikeouts have not been initialed must be rejected.

e) Deposit not submitted or of Insufficient amount

If a certified cheque, bank draft or money order deposit and/or bid bond (if required) is not submitted, the bid must be rejected.

B) Notification of Acceptance of Submission

Upon the award of the Tender Bid, the initiating Department shall inform the successful bidder that the bid has been accepted, and notify all other bidders of the award and the name of the successful bidder. Where a contract is required the initiating Department shall coordinate the preparation of the contract terms with the Legal Department and inform the successful contractor of the process.

C) Disposition of deposit cheque

Following the award of the Tender Bid, all deposit cheques and/or bid bonds, other than the low and second low bids, shall be returned to the applicable bidders by regular mail, upon notification by the initiating Department, and all original submission forms shall be retained on files.

D) Execution of Contract

Where a Township contract is required, a contractor/supplier shall be allowed ten working days between the date of mailing the contract, and the date the executed contract must be returned to the Township. Copies of the executed contract will be distributed to the appropriate department head. No work shall proceed until the contract is executed by all parties and the necessary securities are filed.

E) Action on acceptance of contract

When copies of the executed contract are returned and are acceptable to the Township, the tender bid deposit(s) of the second low bidder shall be returned by registered mail.

F) Action when successful bidder does not finalize contract

If a contract is required, and the successful bidder fails to sign the contract or to provide the necessary security within the specified time, the Clerk-Treasurer may grant additional time not to exceed ten working days, to fulfill the necessary requirements or may recommend to Council, in consultation with the department head, one of the following:

- (i) That the contract shall be awarded to the next lowest bidder; or
- (ii) That award be revoked.

In the case of (i) and the offer of (ii) above, the tender bid deposit of the low bidder shall be forfeited.

12.5 Procurement/Appointment of Professional Services

A) Selection of Criteria

In selecting a consultant, ability, experience in similar type projects, personnel available for the project, reputation, and/or familiarity with the project shall be considered. The selection and weighting criteria shall be determined in advance, based on the scope of the service required. The criteria shall form part of the tender document. Although fees are a consideration, they may not be the prime importance. Selection on a basis of price rather than ability may not ensure the Corporation of the best of most economical overall solution. Generally there are two methods by which a consultant may be selected:

- (i) By direct appointment; or
- (ii) Through a more formal procedure.

B) Direct Appointment

Direct appointment is an efficient manner of making a selection for normal or routine projects. By the use of roster method, the Corporation is able to employ different consultants, thus matching particular talents to project's needs.

This method gives an opportunity to compare services and fees. It also "keeps the consultant competitive".

The following points shall be considered when a consultant:

- (i) Has the consultant served the Corporation well in the past?
- (ii) Is the consultant known to the Corporation?
- (iii) Has the consultant been recommended?
- (iv) Does the Corporation wish to maintain continuity on project by appointing a particular consultant?

C) **Formal selection procedures**

A formal selection procedure should be used for projects unique to the Corporation or when the Corporation does not know of a suitable consultant, or needs additional information to make a selection. This procedure may require the facilitation of an expression of interest in addition to proposals and interviews with prospective consultants.

Guidelines to decide which consultants to appoint:

a) **Project definition**

A detailed definition of the project is required so that the consultants will interpret the requirements in a similar manner, making it easier for the Corporation to make an appropriate selection.

b) **Prepare a long list**

Develop a list of 6-8 consultants from an expression of interest, personal knowledge and/or experience of the Corporation, from recommendations of other municipalities, or obtain names of consultants from professional associations.

c) **Request letter of interest**

Consultants listed should be requested to submit a letter of interest in the project. This brief written submission should include:

- (i) The consultant's ability and experience on similar projects;
- (ii) A list of key personnel and their resumes; and
- (iii) The methods of organization if the project is complex.

d) **Prepare a short list**

Short list 2 to 5 consulting firms from the responses received.

e) **Request for proposals**

When requesting a detailed proposal, the Corporation must provide the consultants with the following:

- (i) Definition of the project;
- (ii) Scope of services that are requested;
- (iii) Terms of reference;
- (iv) The request for proposal should ask the consultant to provide detailed information on:

- The name, size, location and description of firm
- The staff or study team proposed for assignment on the project
- Resumes of key personnel
- The consultant's previous experience
- Project methodology
- Schedule or time frame for the project
- Basis for fees

f) **Interview candidate consultants**

This gives the Township an opportunity to assess the capabilities of the consultant's senior staff and how they interact with Corporation staff.

g) **Select preferred consultant**

Selection should be made on ability, qualifications and experience in similar projects, personnel assigned to the project, reputation, location, knowledge, workload and fees.

h) Meet with preferred consultant

The Corporation should meet with the preferred consultant to discuss the project in depth, update and terms reference and agree on compensation for the project.

i) Approvals

Consulting fees exceeding \$25.00 are subject to public tender.

j) Execute agreement

A contract shall be prepared for the protection of the Corporation and the consultant.

k) Notify unsuccessful consultants

Unsuccessful consultants shall receive written notification of the award from the initiating department.

12.6 Payments

- a) Payments shall be made according to the terms of the tender document.
- b) 10% of the total tender amount will be held back for forty-five days after substantial completion of the contract as per the Construction Lien Act.
- c) Progress payment shall be made upon request according to the following schedule:
 - 50% upon 50% completion
 - An additional 25% upon 75% completion; and
 - A final 15% upon substantial completion
- d) Completion progress shall be substantiated by an Inspection Report completed by the supervisor of the works and no progress payment shall be made without this report.

13.0 Code of Ethics

All Township staff associated with purchasing subscribes to and practices his/her purchasing duties according to the Ontario Public Buyers Association's Code of Ethics, which is based on the following tenets:

- 13.1 Open and honest dealing with everyone who is involved in the purchasing process. This includes all businesses with which the Township contracts or from which it purchases goods and services of purchasing.
- 13.2 Fair and impartial award recommendations for all contracts and tenders. This means that we do not extend preferential treatment to any vendor, including local companies. Not only is it against the law, it is not good business practice, since it limits fair and open competition for all vendors and is therefore a detriment to obtaining the best possible value for each tax dollar.
- 13.3 An irreproachable standard of personal integrity. Staff and Council members associated with, the purchasing process; do not publicly endorse any company in order to give the company an advantage over others.

13.4 Co-operation with other public agencies in order to obtain the best possible value for every tax dollar.

14 Access to Information

The disclosure of information received relevant to the issue of Bid Solicitations or the Award of Contracts emanating from Bid Solicitations shall be in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, as amended.

15 By-Law Review

This By-Law may be reviewed prior to the end of each Council term and any amendment thereto shall be made prior to the inaugural meeting of the next Council.

BE IT RESOLVED that this By-law shall take effect on the final passing thereof.
BE IT RESOLVED that By-Law 2008-24 be repealed.

READ A FIRST, SECOND AND THIRD TIME THIS 9TH DAY OF OCTOBER, 2018.


MAYOR


CLERK-TREASURER

SCHEDULE "A"

BY-LAW 2018-33 OF THE CORPORATION OF THE TOWNSHIP OF MCGARRY

The purchasing methods described in this By-Law do not apply to the following Goods and Services:

1. Training and Education
 - a) Registration and tuition fees for conferences, conventions, courses and seminars
 - b) Magazines, books and periodicals unless the purchase of such magazines, books and periodicals are subject to value-added services
 - c) Memberships
2. Refundable Employee/Councilors Expenses
 - a) Advances
 - b) Meal allowances
 - c) Travel and Entertainment
 - d) Miscellaneous – non- travel
3. Employer's general expenses
 - a) Payroll Deductions Remittances
 - b) Medical
 - c) Licenses
 - d) Debenture Payments
 - e) Grants to Agencies
 - f) Damage Claims
 - g) Petty Cash Replenishment
 - h) Tax Remittances
4. Professional and Special Services
 - a) Committee Fees
 - b) Legal fees and other Professional Services related to litigation or legal matters
 - c) Funeral and Burial expenses
 - d) Witness fees
 - e) Contracts related to the provision of "Controlled Acts" by persons "governed by a health profession Act", as those expressions are used in the Regulated Health Professions Act, S.O. 1991, c.18, as amended
 - f) Veterinary expenses
5. Utilities
6. Advertising services required by the Township on or in, but not limited to radio, television, newspaper and magazines
7. Bailiff or collection agencies

SCHEDULE "B"

BY-LAW 2018-33 OF THE CORPORATION OF THE TOWNSHIP OF MCGARRY

PURCHASING METHODS

| PROCEDURE | COST OF GOOD OR SERVICE |
|---|--------------------------------|
| Approved Invoice or Petty Cash or Purchase Order | \$499.00 or less |
| Agreement, Purchase Order or Request for Proposal or Request for Tender | \$500.00 to \$25,000.00 |
| Agreement, Request for Tender or Request for Proposal | \$25,000.00 or more |

SCHEDULE "C"

TO BY-LAW 2018-33 FOR THE CORPORATION OF THE TOWNSHIP OF MCGARRY

| | IRREGULARITY | RESPONSE |
|-----|--|---|
| 1. | Late bids. | Automatic rejection and not opened or read publicly. |
| 2. | Unsealed envelopes. | Automatic rejection. |
| 3. | Insufficient Financial Security (No bid Security or agreement to bond or insufficient Bid Bond or Agreement to Bond) | Automatic rejection. |
| 4. | Bids completed and/or signed in erasable medium. | Automatic rejection. |
| 5. | All required sections of Bid documents not completed. | Automatic rejection unless, in the consensual opinion of the Agent, Manager in charge of the Bid Solicitation and the Director of Legal Services, or designate, the incomplete nature is trivial or insignificant. |
| 6. | Qualified Bids (Bids qualified or restricted by an attached statement). | Automatic rejection unless, in the consensual opinion of the Agent, Manager in charge of the Bid Solicitation and the Director of Legal Services, or designate, the qualification or restriction is trivial or not significant. |
| 7. | Bids received on documents other than those provided or specified | Automatic rejection. |
| 8. | Bids Containing Minor Obvious Clerical Errors. | 48 hours to correct and initial errors. |
| 9. | Failure to execute Agreement to Bond (Surety's Consent) or Bonding Company Corporate Seal or signature missing from Agreement to Bond. | Automatic rejection. |
| 10. | Failure to execute Bid Bond by Bidder and Bonding Company. | Automatic rejection. |
| a) | Corporate seal of the Bidder and Bonding Company missing | 48 hours to correct |
| 11. | Documents - Execution | |
| a) | Corporate Seal or signature is missing; signatory's authority to bind the corporation or signature missing | 48 hours to rectify situation |
| b) | Corporate seal and signature is missing; signatory's authority to bind the corporation and signature missing. | Automatic rejection. |
| 12. | Erasure, Overwriting or Strike-Outs, which are not initialed. | |
| a) | Uninitialed changes to the Tender documents, other than unit prices, which are trivial or not significant; | 48 hours to initial. The determination of what constitutes trivial or insignificant uninitialed changes shall be made in the consensual opinion of the Agent, Manager in charge of the Bid Solicitation and the Director of Legal Services, or designate. |
| b) | Unit prices in the Schedule of Prices have been changed but not | 48 hours to initial change in unit price. The determination of what constitutes |

| | | |
|-----|---|--|
| | initialed and the Contract totals are inconsistent with the price as changed; | trivial or insignificant uninitialed changes shall be made in the consensual opinion of the Agent, Manager in charge of the Bid Solicitation and the Director of Legal Services, or designate. |
| c) | Unit prices in the Schedule of Prices which have been changed but not initialed and the Contract totals are inconsistent with the price as changed; | Automatic rejection. |
| 13. | Mathematical errors, which are not consistent with unit prices. | 48 hours to initial corrections as made by the Supplies and Services Division. |
| 14. | Documents, in which all necessary Addenda, which have financial implication, have not been acknowledged. | Automatic rejection. |
| 15. | Any other irregularities. | The Agent, Manager in charge of the Bid solicitation and the Director of Legal Services, or designate, acting in consensus shall have authority to waive other irregularities or grant 48 hours to initial such other irregularities, which they jointly consider to be minor. |