



Policy Name:

**PURCHASING POLICY**

**AD-52**

**DEPARTMENT: Administration**

**DATE: August 9, 2016**

**RESOLUTION NUMBER: R2016-466**

**EFFECTIVE: August 9, 2016**

**REVISIONS:**

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**Purpose:** A policy that defines and governs the procurement of goods, services and construction projects for the Corporation of the Municipality of Trent Lakes.

**Scope:** For council, all staff, bidders and potential vendors involved in the process.

**Policy:** Attached pages

# Municipality of Trent Lakes Purchasing Policy

## Procurement Policy

### 1.0 Legislative Authority

*The Municipal Act, 2001*, S.O. 2001, Chapter 25 Part VI, Section 270(1) as amended, states that a municipality shall adopt and maintain policies with respect to its procurement of goods and services.

### 2.0 Goals of the Purchasing Policy

- 2.1 This policy sets out guidelines for the Municipality to ensure that all purchases of goods and services provide the best value for the Municipality's ratepayers. All things being equal, and having regard for the guidance of this policy, "best value" may be described as receiving the required quality and service at the lowest cost.
- 2.2 This policy shall provide guidance for an open and honest procurement program, with transparency as a cornerstone of the decision making process.
- 2.3 This policy shall provide a purchasing environment that is fair, impartial and transparent.
- 2.4 This policy shall promote and maintain the integrity of the purchasing process and protect Council, vendors and staff involved in the process by providing clear direction and accountabilities.
- 2.5 A competitive bidding process is the preferred method of purchasing and as such Department Heads are encouraged to seek out new sources of supply, readily provide purchasing information to vendors in a cooperative manner and ensure that all mechanisms for purchasing contain clear and full disclosure of requirements.
- 2.6 To maintain integrity and protect the interests of our taxpayers, any elected or appointed official participating in a procurement process that have a private interest that are in conflict with their duties as elected or appointed officials, shall declare said conflict as required under the provisions of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M.50.
- 2.7 All applicable legislation, including the *Municipal Freedom of Information and Protection of Privacy Act*, the *Municipal Act*, the Interprovincial Trade Agreement, and the Integrated Accessibility Standards Regulation will be considered prior and during the procurement process.

### 3.0 Definitions

## **Municipality of Trent Lakes Purchasing Policy**

3.1 For the purposes of this Policy:

**“Bid”** shall mean a submission, under any of the prescribed purchasing mechanisms, from a prospective vendor in response to a request for the purchase of goods and services issued by the Municipality.

**“CAO”** shall mean the Chief Administrative Officer for the Municipality.

**“Council”** shall mean the Council of the Corporation of the Municipality of Trent Lakes.

**“Department Head”** shall mean the head of a department operating within the Municipality of Trent Lakes, being the Chief Building Official; Clerk; Treasurer; Fire Chief; Roads Superintendent; the Chief Administrative Officer (where applicable).

**“Emergency Purchase”** shall mean a purchase made in a crisis situation where immediate action is required to prevent the possible loss of life, property or minimize a negative impact on municipal operations.

**“Evaluation Members”** shall be composed of the Department Head, and two of the following: the CAO, the Treasurer, the Clerk, another employee deemed appropriate.

**“Goods”** shall mean supplies, wares, merchandise, material and equipment, including leases.

**“Purchasing Designate”** shall mean a person designated by a Department Head to exercise any or all responsibilities of the Department Head with respect to this policy.

**“Quotation”** shall mean a competitive bid process for goods or services that is conveyed and received from bidders in a written format by e-mail, mail or fax.

**“RFP”** shall mean a Request for Proposal document that sets out general specifications for the commodity or service required when goods or services cannot be specifically stipulated or when alternative methods are being sought to perform certain functions or services.

**“Sealed Bids”** are bids submitted in a sealed envelope to a specified location, by a specified date.

**“Services”** shall mean items such as telephone, fuel, water, hydro, janitorial and cleaning services, consultant services, legal surveys, medical and related services, insurance, leases for grounds, buildings, office or other space required by the Municipality and the rental, repair or maintenance of equipment, machinery or other personal and real property.

**“Tender”** means a document that sets out particular specifications for the goods or service required. This can also refer to an offer in writing to execute some specified work or to provide some specified articles at a specified rate.

# **Municipality of Trent Lakes Purchasing Policy**

***“The Corporation of the Municipality of Trent Lakes”*** herein is also referred to as the “Municipality”.

***“Time Sensitive Purchase”*** shall mean a purchase made in a situation where immediate action is required to engage vendors to ensure that works are completed within a specific time frame to minimize a negative impact on municipal operations.

***“Vendor”*** shall mean any person or enterprise supplying goods or services to the Corporation of the Municipality of Trent Lakes.

## **4.0 Purchasing Responsibilities**

### **4.1 Expenditure Authorization**

The Municipality of Trent Lakes Council has ultimate authority and accountability for all expenditures. Council delegates this authority by the authorization of budgets or by specific resolution. This purchasing policy outlines how spending authority is to be used.

### **4.2 Department Head Authorization and Responsibilities**

- 4.2.1 The Department Head shall be responsible for approval of accounts within the approved budget for their respective department, or any amendment to same, as approved by Council.
- 4.2.2 Reports to Council by a Department Head that recommend budget amendments, capital expenditures or special appropriations shall contain purpose of expenditure, cost estimates or expenditure limitation, and the fund in which an appropriation has been provided. All reports recommending such matters shall also require endorsement by the Chief Administrative Officer or designates.

### **4.3 Purchasing Designate**

A Department Head may appoint a Purchasing Designate to exercise any or all responsibilities assigned to that Department Head by this policy. The Department Head shall advise the CAO and Treasurer of this appointment.

## **5.0 Purchasing Mechanisms**

# **Municipality of Trent Lakes Purchasing Policy**

In determining which purchasing mechanism is the most appropriate, the Department Head shall have regard for the goals as outlined in Section 2, the purchasing responsibilities as outlined in section 4 and the dollar thresholds as stated in section 5. The efficient utilization of these mechanisms shall ensure that the ratepayers of the Municipality receive best value for their tax dollars.

## **5.1 Small Order Purchases**

The Department Head shall be authorized to make small order purchases of goods and services up to an amount of \$5,000.00 from such vendor and upon such terms and conditions as the Department Head deems appropriate. The Department Head shall obtain at least three prices if possible from known suppliers who can provide acceptable quality goods or services at competitive prices for goods or services where the total is greater than \$1,000.00 and less than \$5,000.00.

## **5.2 Quotation Purchases**

- 5.2.1 The Department Head shall be authorized to make purchases of goods and services for estimated expenditures exceeding \$5,000.00 and less than \$25,000.00 from such vendor and upon such terms and conditions as the Department Head deems appropriate subject to first obtaining at least three (3) written quotations whenever possible.
- 5.2.2 Notwithstanding 5.2.1 when the preferred quotation exceeds the approved budget or exceeds \$25,000, the Department Head shall obtain the approval of the Chief Administrative Officer and Council.
- 5.2.3 At the discretion of the Chief Administrative Officer, any quotations may be referred to Council for disposition. In this event, the respective Department Head shall prepare recommendation in writing for Council to deal with the quotations received at a Council meeting.

## **5.3 Tender Purchase**

- 5.3.1 The Department Head shall not order goods and services exceeding \$25,000.00 without requesting and obtaining sealed tenders for the goods and services. At least three (3) bids shall be obtained whenever possible.
- 5.3.2 In the preparation of a tender, the Department Head shall ensure that, as a minimum, the bid document includes the following sections:
  - Instruction to bidders
  - Specifications of the goods and services

## **Municipality of Trent Lakes Purchasing Policy**

- Terms and conditions
- Financial Requirements (Tender Deposit information)
- Format for the evaluation criteria
- Format for the scoring matrix
- Prescribed format for the schedule of items and prices
- An authorized signature that binds the bidder to the terms and bid document
- References

5.3.3 After the opening of the tenders members of the Evaluation Members shall review the documentation individually and score all RFP's using the prescribed scoring matrix.

5.3.4 The respective Department Head shall prepare a preliminary tender summary report of the tenders received, including the names of all those submitting a tender and the tender amounts and security/deposit amounts (if applicable) and a recommendation in writing to the CAO and Treasurer for review and comment prior to submission to Council. The report will then be forwarded to Council for direction.

5.3.5 Notwithstanding Section 5.3.3 & 5.3.4, where tenders are coordinated by a Consultant for a designated project, the consultant shall prepare a recommendation in writing for the respective Department for Council to deal with the tenders received.

5.3.6 Council shall make the final determination as to awarding of all tenders. The lowest tender, or any tender, not necessarily accepted. Appendix 'B' attached hereto outlines Bid Irregularities.

### **5.4 Requests for Proposals**

5.4.1 The Department Head may use a Request for Proposal in place of a tender or quotation when goods and services cannot be specifically stipulated or when alternative methods are being sought to perform functions or services. At least three (3) bids shall be obtained whenever possible.

5.4.2 A RFP bid document shall be developed by the respective Department Head, with support and input from the Chief Administrative Officer or designates. In the preparation of the RFP the Department Head shall ensure that, as a minimum, the bid document includes the following seven sections:

- Instruction to bidders
- Specifications of the goods and services
- Terms and conditions
- Format for the evaluation criteria
- Format for the scoring matrix
- Prescribed format for the schedule of items and prices
- An authorized signature that binds the bidder to the terms of the bid document

# Municipality of Trent Lakes Purchasing Policy

- References

## 5.5 Advertising

The Department Head shall draft the advertisement in consultation with the CAO, and publish same in appropriate publications. As a minimum, all tenders and RFP's (not by invitation) shall be advertised on our website and social media and may advertise locally in the local media publications. The closing date for tenders and RFP's shall be no sooner than **two weeks** following publication in the local media unless the urgency of the requirement dictates otherwise and approval from Council has been obtained. Each advertisement for Tender and Request for Proposal shall typically contain the following information:

- Location where tender/RFP documents may be obtained
- Date and time of tender/RFP closing
- General specifications of the goods or services required
- Name and phone number of contact person
- And the following statements:

*“Tenders (or RFP) on the prescribed Tender (or RFP) and sealed in an envelope clearly marked shall be received by \_\_\_\_\_ (provide date)\_\_\_\_\_ at the Municipality of Trent Lakes, 760 Peterborough County Road 36, Trent Lakes, Ontario K0M 1A0. The lowest or any tender need not necessarily be accepted.”*

## 5.7 List of Prospective Bidders

The Department Head or their designate shall keep a list of all persons taking out tender and RFP documents. Such list shall contain the prospective bidder's name, address and telephone number and shall be made available to the public.

## 5.8 Sole Sourcing

In some instances, there is only one known qualified supplier of goods or services. If at all possible, this non-competitive process for obtaining goods or services should be avoided. If however, the goods or services are required by the municipality, the purchaser shall record the price(s) appropriately.

## 5.9 Goods or Services at a Trade Show

## **Municipality of Trent Lakes Purchasing Policy**

The Department Head or designate may have the opportunity to attend trade shows, where on occasion special pricing can be obtained on specific goods or services. The Department Head or designate shall obtain at least one (1) price from a known supplier of the goods or services in advance of the attendance at the trade show in order to ascertain that the price(s) obtained at the trade show are in fact competitive. The Department Head or designate shall record the price obtained prior to and following attendance at the trade show.

### **6.0 Purchase by Negotiation**

- 6.1 The Department Head and/or Chief Administrative Officer as directed by Council may under the following conditions negotiate with one or more bidders and in such cases the requirement for inviting tenders or quotations is waived.
- When in the judgment of the Department Head, goods are judged to be in short supply due to market conditions
  - Where there is only one source of supply for the goods or services
  - Where two or more identical bids have been received
  - Where the lowest tender or quotation meeting specifications substantially exceeds the estimated cost and it is impractical to recall the tender or quotation
  - When all bids received fail to meet the specifications or tender terms and conditions and it is impractical to recall tenders or quotations
  - When only one bid received in a tender or quotation
  - When no bids are received in a tender or quotation call
- 6.2 When negotiations are deemed necessary they shall be carried out jointly in co-operation with the Department subject to the conditions of this Policy.
- 6.3 Any negotiated purchase contract for \$25,000.00 or more in value, excluding taxes and freight, shall be subject to approval from Council.
- 6.4 The methods of negotiation shall be those accepted as standard negotiating procedures that employ fair ethical practices.

### **7. Exercise of Contract Renewal Options**

- 7.1 Where a contract contains an option for renewal, the Department Head may authorize to exercise such option provided all of the following apply:
- The supplier's performance in supplying the goods, services or construction is considered to have met the requirements of the contract

## **Municipality of Trent Lakes Purchasing Policy**

- The Department Head and CAO agree that the exercise of the option is the best interest of the Municipality
- Funds are available in appropriate accounts within Municipality Council approved budget including authorized revisions to meet the proposed expenditure
- A valid business case has been completed

7.2 The business case shall be authorized by the Department Head and shall include a written explanation as to why the renewal is in the best interest of the Municipality and include comment on the market situation and trend.

### **8.0 Contract Amendments and Revisions**

8.1 No amendment or revision to a contract shall be made unless the amendment is in the best interest of the Municipality.

8.2 No amendment that changes the price of a contract shall be agreed to without a corresponding change in requirement or scope of work.

8.3 Amendments to contracts are subject to the identification and availability of sufficient funds in appropriate accounts within Municipality Council approved budget including authorized revisions.

8.4 Where expenditures for the proposed amendment combined with the price of the original contract exceeds Municipality Council approved budget for the project, a report prepared by the Department Head shall be submitted to Council recommending the amendment, and proposing the source of financing as per AD-48 being the Municipal Budget Administration Policy.

### **9.0 Exclusions**

9.1 While having regard for the goals of this policy, Department Heads are encouraged to consider the skills of Municipality staff and range of Municipality equipment and seek out in-house bids where applicable. In this manner, the respective Department Head shall prepare a written budget outlining all direct/in-direct costs. The Department Head(s) and Chief Administrative Officer shall review the budget and have regard for:

- Cost
- Department workload
- Timelines of project completion

Upon completion of the review determine whether the in-house bid is appropriate to achieving the goal of best value for the Municipality ratepayers.

# Municipality of Trent Lakes Purchasing Policy

9.2 In addition, adherence to this purchasing policy is not required with respect to those items listed in Appendix 'A' attached hereto.

## 10.0 Emergency and Time Sensitive Purchases

10.1 Emergency includes:

- An imminent or actual danger to the life, health or safety of an official or an employee while acting on the Municipality's behalf;
- An imminent or actual danger of injury to or destruction of real or personal property belonging to the Municipality
- An unexpected interruption of a public service
- An emergency as defined by the *Emergency Plans Act*, R.S.O. 1990, Chapter E.9 and the emergency plan formulated there under by the Municipality
- A spill of a pollutant as contemplated by Part X of the *Environmental Protection Act*, R.S.O. 1990, Chapter E.19 and
- Mandate of a non-compliance order

The Department Head shall be authorized to make emergency and time sensitive purchases in excess of \$5,000.00 upon the approval of the Chief Administrative Officer. The Department Head shall present a report to Council at its next meeting providing sufficient details on the purchase, emergency involved or timing rationale, and impact on approved departmental budget.

## 11.0 Communications

- 11.1 All bid documents, and their respective advertisement of invitation, shall state the date, time and place of bid opening / closing.
- 11.2 The Municipality web site shall include a section dedicated to Tenders and RFP's. The website shall include a copy of the current purchasing policy. All notices for tenders and RFPs shall be posted on the website.
- 11.3 Any persons desiring to be present at the opening of tenders and RFPs may attend.

## 12.0 Administration

## **Municipality of Trent Lakes Purchasing Policy**

- 12.1 All tenders and RFPs shall be received at the Municipality of Trent Lakes Municipal Office, 760 Peterborough County Road 36, Trent Lakes, Ontario for recording of date and time received for safekeeping pending the opening of same.
- 12.2 All tenders and RFPs shall close at the time and day specified in the advertisement.
- 12.3 Within three (3) hours of the closing, or a time deemed reasonable by the Department Head, the tenders shall be opened publicly and the names of those submitting and the amounts shall be disclosed at the time of opening.
- 12.4 Tenders and RFPs shall be opened in the presence of the Department Head and at least one other Department Head (Clerk and/or Treasurer) and/or the CAO and any other person deemed necessary.
- 12.5 No contract or purchase shall be divided to avoid the requirements of this policy.
- 12.6 Vendor contact regarding Tender/RFP's with Council Members is prohibited and can be considered as grounds for disqualification from the selection process.
- 12.7 The Municipality may participate with other units of government, their agencies or public authorities in co-operative purchase ventures when the best interest of the Municipality will be served.

### **13.0 Conflict of Interest**

- 13.1 The Department Head shall not open and consider any bid, or otherwise acquire any goods or services from an elected official, officer or employee of the Municipality unless the elected official, officer or employee obtains approval from Council prior to the close of the bid or the acquisition of the goods and services.
- 13.2 No Elected Official, officer or employee of the Municipality shall allow contact with a person, or any officer, employee or agent of the person who has submitted a bid to the Municipality unless the bid call has been awarded or the contact is for the purpose of receiving a complaint.
- 13.3 All consultants (eg. Architects, engineers, etc.) 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 Department Head, may at its discretion, withhold the assignment from the consultant until the matter is resolved. And furthermore, if during the contract of a Municipality assignment, a consultant is retained by another client giving rise to a potential conflict of interest, then the consultant shall so inform the Municipality.

## **Municipality of Trent Lakes Purchasing Policy**

- 13.4 Elected officials, officers or employees of the Municipality shall declare a conflict of interest when they submit a bid and shall not be present when any decision is being made.

### **14.0 Financial Services**

- 14.1 All invoices or accounts from vendors shall be forwarded to the Accounts Payable Department only after they have been properly marked as received, properly coded to the correct general ledger account and approved by the appropriate Department Head(s).
- 14.2 Prior to the adoption of the annual estimates, the services provided shall continue at the level carried out the previous year. The Department Heads are authorized to incur expenses, and the Treasurer is authorized to pay the accounts, of such ordinary business transactions.
- 14.3 Prior to the adoption of annual estimates, specific Council authorization is required for expenditures for special projects, capital purchases over \$5,000.00, consultant fees, land purchases and/or new services with the exception of expenses for ongoing project and capital purchases carried forward from the previous year.
- 14.4 After the adoption of estimates, the Treasurer is authorized to pay the accounts approved by the respective Department Heads.

### **15.0 Disposal of Surplus Items and Real Property**

- 15.1 Any “real property” or “surplus items” belonging to the “municipality” and declared surplus shall be disposed of in accordance with the Municipal Policy – AD-53 Disposal of Municipal Assets.

### **16.0 Purchasing Policy Improvements**

In order to ensure that Council and staff are familiar with this policy and that the policy reflects best practices, it shall be reviewed in the first year of each Council term. The review shall be coordinated by the Treasurer or designate and shall include an initial review by the Department Heads, suggestion of any proposed amendments or additions, and a report by the Chief Administrative Officer with recommendations to Council.

# **Municipality of Trent Lakes Purchasing Policy**

## **Appendix A – List of Items Exempt from the Policy**

The following items are excluded from the requirements of this Policy and therefore no quotations, tenders, proposals or purchase orders are required:

### **Petty Cash Items**

#### **Training and Education**

- a. Conferences, Courses, Conventions and Seminars.
- b. Magazines, Books, Periodicals
- c. Memberships
- d. Staff training/development/workshops

#### **Refundable Employee Expenses**

- a. Advances
- b. Meal Allowances
- c. Miscellaneous - Non-Travel
- d. Travel and Entertainment

# Municipality of Trent Lakes Purchasing Policy

## Appendix B - Bid Irregularity

### **Bid Irregularity**

A bid irregularity is a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response.

For the purposes of this policy, bid irregularities are further classified as "major irregularities" or "minor irregularities".

A "**major irregularity**" is a deviation from the bid request that affects the price, quality, quantity or delivery, and is material to the award. If the deviation is permitted, the bidder could gain an unfair advantage over competitors. The CAO must reject any bid, which contains a major irregularity. The bidder will be notified of the rejection due to the major irregularity.

A "**minor irregularity**" is a deviation from the bid request, which affects form, rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. If the deviation is permitted or corrected, the bidder would not gain an unfair advantage over competitors. The CAO may permit the bidder to correct a minor irregularity.

### **Mathematical Errors – Rectified by Staff**

The CAO will correct errors in mathematical extensions and/or taxes, and the unit prices will govern. If, based on the corrected total the required bid deposit is insufficient, the bidder shall be notified and will be given 24 hours to rectify the issue or the bid will be automatically rejected.

### **Action Taken:**

The CAO or designate will be responsible for all action taken in dealing with bid irregularities, and acts in accordance with the nature of the irregularity:

- major irregularity (automatic rejection)
- minor irregularity (bidder may rectify)
- mathematical error (additions or extensions) as above

In the event that the vendor withdraws his bid due to the identification of a major irregularity, the Municipality may disqualify such vendor from participating in Municipality quotations/tenders/requests for proposals for a period of up to one year.

## Municipality of Trent Lakes Purchasing Policy

### Appendix B

Bid Irregularities – Summary				
Item	Description	Major	Minor	Action
1.	Late bids (by any amount of time)	X		automatic rejection
2.	Bids completed in pencil	X		automatic rejection
3.	Bid surety not submitted with the bid when the bid request (or any addenda) indicated that such surety is required	X		automatic rejection
4.	Execution of Agreement to Bond: a. Bond company corporate seal or equivalent proof of authority to bind company or signature missing b. surety company not licensed to do business in Ontario	X		automatic rejection
5.	Execution of Bid Bonds: a. corporate seal or equivalent proof of authority to bind company or signature of the Bidder or both missing b. corporate seal or equivalent proof of authority to bind company or signature of Bonding Company missing	X		automatic rejection
6.	Other Bid Security: Cheque which has not been certified	X		automatic rejection
7.	Bidders not attending mandatory site meeting	X		automatic rejection
8.	Unsealed tender envelopes	X		automatic rejection
9.	Proper response envelope or label not used		X	acceptable if officially received on time
10.	Pricing or signature pages missing or not properly signed and executed	X		automatic rejection
11.	Insufficient financial security (i.e.: no deposit or bid bond or insufficient deposit)	X or	X	where security is required & amount is not specified in request, automatic rejection unless

## Municipality of Trent Lakes Purchasing Policy

Bid Irregularities – Summary				
Item	Description	Major	Minor	Action
				insufficiency is deminimus (trivial or insignificant) -where security is required and amount of security is specified in request, automatic rejection
12.	Bid received on documents other than those provided in request	X		not acceptable unless specified otherwise in the request
13.	Execution of Bid Document proof of authority to bind is missing	X		automatic rejection
14.	Bids containing minor clerical errors		X	1 working day to correct initial errors. Municipality reserves the right to waive initialling and accept bid
15.	Un-initialled changes to the request documents which are minor (i.e.; the bidder's address is amended by overwriting but not initialled)		X	1 working day to correct initial errors. Municipality reserves the right to waive initialling and accept bid
16.	Alternate items bid in whole or in part		X	available for further consideration unless specified otherwise in request

## Municipality of Trent Lakes Purchasing Policy

Bid Irregularities – Summary				
Item	Description	Major	Minor	Action
17.	Unit prices in the schedule of prices have been changed but not initialled		X	1 working day to correct initial errors. Municipality reserves the right to waive initialling and accept bid
18.	Other mathematical errors which are not consistent with the unit prices		X	1 working day to initial corrections. Unit prices will govern.
19.	Pages requiring completion of information by vendor are missing		X	1 working day to provide upon request
20.	Bid documents which suggest that the bidder has made a major mistake in calculations or bid			consultation with a Solicitor on a case-by-case basis and referenced within the staff report if applicable
21.	When a document fee is requested, respondents must have previously purchased the respective bid document and be on the corresponding plan takers list	X		automatic rejection
22.	Tendered item does not meet mandatory specifications	X		automatic rejection

**Note: The above list of irregularities should not be considered all inclusive. The CAO, in consultation with the requisitioning department will review minor irregularities not listed. The CAO may then accept the bid, or request that the bidder rectify the deviation.**