



**Corporation of the Town of Ingersoll
By-Law 23-5282**

A bylaw to provide for the Public tendering and Procurement policy for the Town of Ingersoll

WHEREAS the Municipal Act, Chapter, S.O. 2001, as amended, states that the council of a municipality must establish a public tendering and procurement policy in respect of the municipality's acquisition of goods or services by purchase, hire-purchase, lease, rental or other agreement;

AND WHEREAS the objective of the procurement function is to provide Departments with goods, services and construction on a timely basis, as efficiently as possible, and for the best value;

AND WHEREAS the Council of the Town of Ingersoll recognizes the need for a clear and concise policy concerning procurement;

NOW THEREFORE, the Council of the Corporation of the Town of Ingersoll enacts as follows:

1. That the Procurement of Goods and Services for the Town of Ingersoll shall be governed by the provision and regulations contained in this By-law and as attached as Schedule 'A';
2. That Schedule 'A' attached hereto, in substantially the same form, shall form part of this By-law; and
3. Further that this by-law shall become effective and come into force after third reading of the by-law.
4. That by-laws 15-4804 and other by-laws not consistent with this by-law are hereby rescinded in their entirety.

READ a first and second time in Open Council this 10th day of October, 2023.

READ a third time in Open Council and passed this 10th day of October, 2023.

Brian Petrie, Mayor

Danielle Richard, Clerk



Policy Title: Procurement of Goods and Services

Effective Date: May 11, 2015

Review Date(s): October 10, 2023

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1.0 LEGISLATIVE AUTHORITY

- 1.1 The *Municipal Act, 2001* Part VI, Section 270, as amended states that a Town and a local board shall adopt policies with respect to its procurement of goods and services.
- 1.2 As per the Integrated Accessibility Standard Regulation under the Accessibility for Ontarians with Disabilities Act 2005, all municipal and local board procurement of goods and services will incorporate accessibility criteria and features where it is practical to do so. If it is determined that it is not practical to do so, an explanation as to why it is not practical to do so will be noted where it can be shared as necessary.
- 1.3 Privacy Legislation: The Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), 1990 makes public bodies accountable to the public and responsible to protect personal privacy. The privacy legislation stipulates a right of access to records held by public bodies and regulates how public bodies manage personal information collected. All correspondence, documentation, and information provided to the Town of Ingersoll by any proponent in connection with the respective request for procurement will become the property of the Town. All documentation relating to a request for procurement not identified is subject to the provisions of MFIPPA and may be released, pursuant to the provisions of MFIPPA. At a minimum, the Proponent's name and total bid amount will be made publicly available upon request.
- 1.4 Procurement activities shall be subject to all applicable Town policies and by-laws; any specific provisions of the Municipal Act; all other applicable Federal and Provincial legislation, and applicable trade agreements such as the Canada Free Trade Agreement (CFTA); and the Comprehensive Economic and Trade Agreement (CETA), and Trade and Cooperation Agreement between Ontario and Quebec, Comprehensive and Progressive Agreement for Trans Pacific Partnership (CPTPP), United States-Mexico-Canada Agreement (USMCA).
- 1.5 Occupational Health and Safety Act: The contractor is bound by regulations issued by the Ministry of Labour for the Province of Ontario under the Occupational Health and Safety Act. The contractor acknowledges that they comply with these regulations and that they are the contractor under the Occupational Health and Safety Act as it relates to the completion of the work, and shall indemnify and hold harmless the Town in respect of same, including any, legal costs, fines or other penalties incurred by the Town resulting from the contractor's performance or failure to perform under the contract terms.
- 1.6 Insurance and Workplace Safety and Insurance Board (WSIB): All vendors who supply services to the Town of I shall, before the start of work, provide proof of insurance and WSIB clearance certificate. General liability amounts shall have limits no less than \$5,000,000 and will be determined by the department director.

2.0 PURPOSE OF PURCHASING POLICY

- 2.1 The purpose of this policy is to set out guidelines for the Town to ensure that all purchases of materials, supplies and services provide the lowest costs consistent with the required quality and service.

- 2.2 An open and honest process shall be maintained that is fair and impartial.
- 2.3 The purchasing policy will promote and maintain the integrity of the purchasing process and protect Council, staff and vendors involved in the process, by providing clear direction and accountabilities.

3.0 GENERAL PROVISIONS

- 3.1 No contract or purchase shall be divided to avoid any requirements of this policy.
- 3.2 The Department Head shall be responsible for the preparation of specifications. Such specifications are to be generic or “as equivalent”.
- 3.3 No employee of the Town of Ingersoll will have any interest directly or indirectly, as a contracting party, partner, shareholder, surety or otherwise in any contract for goods or services or in any of the monies to be derived there from, unless by resolution of Council prior to award.
- 3.4 If any staff has a direct or indirect interest and is responsible for the quote or tender, the process shall be undertaken by a designate appointed by the Chief Administration Officer (CAO).
- 3.5 No purchase of goods and services shall be authorized unless it is in compliance with the Purchasing Policy. Goods and services that are obtained without following the provisions of the aforementioned will not be accepted and any invoices received will not be processed for payment.
- 3.6 The Town does not accept bids made by a Department submitted in response to a bid solicitation where the provision of the goods or services will be provided entirely by the employees of the Town otherwise known as In House Bids.
- 3.7 The Town will not consider In House bids for goods and/or services that compete with the external parties during any procurement process. A decision on In House delivery will be made prior to entering the procurement process.
- 3.8 The Town may participate in cooperative purchasing with other municipalities or government agencies including Provincial and Federal vendor agreements and/or Group Purchasing Organizations (GPO). The Town may take advantage of these cooperative opportunities if they are deemed to be in the best interests of the Town and the method of procurement used is a competitive method similar to those described in the policy.
- 3.9 No tender, proposal or quotation will be accepted from any company inclusive of its subcontractor, which has a claim or instituted a legal proceeding against the Town without prior approval by Council.
- 3.10 All departments shall review their contracts and tender specifications for goods and services, to ensure that wherever possible and economical as determined by the Department Head, specifications are amended to provide for expanded use of products

and services that contain post-consumer recyclable waste and/or recyclable content to the maximum level allowable, without significantly affecting the intended use or performance of the product or service. It is also recognized that a cost analysis may be required in order to ensure that the products are made available at competitive prices in order to increase the development and awareness of Environmentally Sound Products.

- 3.11 Any recommendation to award will be in favour of a bidder meeting specifications, terms and conditions of the tender and whose tender offers the lowest ultimate cost to the Town for the goods or services being tendered with due consideration of the importance of quality, service and price.
- 3.12 All bids submitted become the property of the Town. They will be received and held in confidence by the Town subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*. To assist in maintaining the integrity of the bid process, persons participating in a procurement process shall in addition to all other provisions of this Purchasing Policy, handle information and bids submitted in confidence, in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.
- 3.13 Information pertaining to the Town obtained by the proponent as a result of participation in a project is confidential and must not be disclosed without written authorization of the Town.
- 3.14 Notwithstanding section 3.12 of this Purchasing Policy, after the deadline for receipt of bids has passed, for all purchases made in accordance with this Purchasing Policy, the names of bidders and the total prices offered, but not unit prices or information which could reveal unit prices, except in cases where the Town requested unit prices in place of total prices are to be released. Further, where total prices have been requested by the Town and submitted with the bid, then unit prices and information which could reveal them, shall not be disclosed or made public, except in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.

4.0 **APPLICATION**

The following committees and local boards are bound by this Policy:
Ingersoll Business Improvement Area

5.0 **DIRECTOR OF FINANCE RESPONSIBILITIES**

The Director of Finance is responsible for the management, organization and administration of a town-wide, municipal purchasing function, as well as developing policies and procedures for the Purchasing function.

6.0 **EMPLOYEE RESPONSIBILITIES**

Each employee empowered to create, authorize and issue Purchase Orders in the name of the Town, is to understand that these steps constitute a commitment by the

Town to honour the purchase of goods and services from vendors, for which the employee is to be held accountable.

7.0 CONSULTING FIRM RESPONSIBILITIES

- 7.1 Should it be deemed advantageous to engage the services of a consultant in the bidding process, the Department Head must ensure the consultant is aware of and follows the Town's purchasing policies and procedures.
- 7.2 Consultants are to provide a copy of any documentation being issued in the Town's name, to the department prior to issuance.

8.0 FINANCIAL ACCOUNTABILITY

- 8.1 Prior to the adoption of annual budget, operating supplies and service purchases shall continue at the level set out in the prior year. Capital purchases shall not be made until the current year budget is approved or Council approval is obtained. Where this policy prescribes dollar limits, the contract amount shall be the estimated total acquisition cost less recoverable HST.

9.0 CONTRACT ADMINISTRATION

- 9.1 It shall be the responsibility of the Department Head to enforce the contract terms, conditions and specifications.
- 9.2 The Department Head of the requisitioning department may make the vendor ineligible for award for a period of up to two years on the basis of documented poor performance, non-performance or conflict of interest. This could include but is not limited to failure to meet completion dates, follow instructions, non-compliance with the *Occupational Health and Safety Act*, R.S.O. 1990 c.01 as amended, failure to comply with the terms and conditions of the contract. A written notice of the decision will be provided to the vendor.

10.0 REQUESTS FOR VENDOR INPUT

- 10.1 Vendors or potential vendors should not be requested to expend time, money or effort on design or in developing specifications or otherwise help define a requirement beyond the normal level of service expected from vendors.
- 10.2 When such services are required:
 - 1) the contracted vendor will be considered as a consultant and unable to make an offer for the supply of goods and services;
 - 2) shall be paid a fee;
 - 3) and the detailed specifications shall become the property of the Town for use in obtaining competitive bids.

11.0 GRATUITIES

- 11.1 As a result of the Towns procurement from vendors and in accordance with Council Code of Conduct, the acceptance of gifts, benefits, money, discounts, favours or other assistance by any member of Council, employees of the County, or their families is prohibited.
- 11.2 The purchase of goods and/or services by the Town from any member of Council or employee of the Town, their family members or from any other source, which would result in a conflict of interest shall be disclosed in accordance with Municipal Conflict of Interest Act, .S.O. 1990, c M.50; Council Code of Conduct.

12.0 LOCAL VENDOR/SUPPLIER

Town of Ingersoll supplies must be included in all purchasing solicitations where possible. Local vendors will be evaluated the same as any other vendor who responds to the procurement requirements as outlined in this policy. The Town will not grant a preference to local vendors contrary to the Discrimination Business Practices Act, R.S.O 1990, c. D. 12.

13.0 ISSUING/AUTHORIZATION OF PURCHASES

Purchases can be issued and/or authorized only by:

- a) Department Head
- b) Staff designated by the Department Head.

14.0 ADVERTISING

Bids shall be advertised on the Town’s website and/or through online platforms such as Biddingo or Bid & Tenders. Where effective, and in the opinion of the Department Head bids shall be advertised in local newspapers, applicable publications and other media, or where necessary to comply with all existing statutory regulations.

15.0 BID ADDENDUM

In no instance shall anyone issue any verbal or written changes on a bid. All changes must be done through addendum issued.

16.0 BID DEPOSITS

- 16.1 Bid deposits of no less than 5% of the estimated value of the work shall be required to accompany bid submissions for all bids for municipal construction projects in excess of \$100,000 or where deemed necessary by the Department Head.
- 16.2 A bid deposit shall be provided in one of the following formats:

- a) Bid bonds or an agreement to bond issued by a bonding agency licensed to operate in the Province of Ontario naming the Town as the obliged;
- b) A certified cheque made payable to the Town;
- c) An irrevocable letter of credit naming the Town as the beneficiary;
- d) Money orders made payable to the Town;
- e) Bank draft made payable to the Town;

16.3 The Town does not pay interest on any bid deposits.

16.4 The Town reserves the right to turn the bid deposit of the successful bidder into a financial guarantee if specified in the bid documents.

17.0 BONDING REQUIREMENTS

17.1 Performance, labour and material, and/or maintenance bonds are required for all construction projects exceeding \$100,000 for a minimum of 50% of the bid amount. The cost for bonding is to be included in the submission price.

17.2 All bonds must be originals, signed and sealed. No facsimile or photocopies will be accepted.

17.3 Where performance, labour and material and/or maintenance bonding is required, an agreement to bond must be included with the bid submission.

17.4 For some smaller construction projects under \$250,000, an irrevocable letter of credit for 100% of the bid amount may be accepted in lieu of bonding if specified in the bid documents. Such irrevocable letter of credit must include terms and conditions acceptable to the Town as specified in the bid documents.

18.0 INSURANCE

18.1 The Town shall be indemnified for and against any claim, loss, cost or damage resulting from a supplier's obligations under a contract or any terms and conditions set out in a response to the bid request.

18.2 The standard insurance minimums are as follows:

\$5 million – commercial general liability policy

\$5 million – owned and non-owned automotive liability policy

\$2 million – homeowners (e.g. for rental of facilities)

\$5million – professional errors and omissions liability (as applicable)

\$5 million – environmental impairment liability (as applicable) The amount of the project cost - Builders Risk (as applicable)

Maximum property Damage/Bodily Injury Deductible \$2,500 for which the Contractor assumes full responsibility

18.3 Other Insurance Coverage – The Town reserves the right to request different limits of

insurance or other types of policies appropriate to the agreement as the Town may reasonably require from time to time with review of the Town's insurance provider.

18.4 The successful bidder must provide the Town at their cost a certified copy of a liability insurance policy covering public liability and property damage for no less than the minimum amounts stated above to the satisfaction of the Town and in force for the entire contract period. The policy must contain:

- 1) the owner, its employees and consultants as insureds. The Town and such entities as directed shall be added as additional insureds;
- 2) a Blanket Contractual Liability and Cross Liability endorsements;
- 3) an endorsement certifying that the Town as an additional named insured;
- 4) an endorsement to the effect that the policy will not be altered, cancelled or allowed to lapse without thirty days prior written notice to the Town.

19.0 RISK MANAGEMENT

19.1 The Director of Finance shall from time to time, as required, review Risk Management Clauses, and develop new Clauses as needed.

The Town uses the following criteria to pre-qualify vendors and mitigate risk:

- a) A request for pre-qualification or expression of interest document may be issued to pre-qualify vendors for projects prior to the issuance of a request for tender or proposal.
- b) The purpose of the pre-qualification is to ensure that each vendor proposing to perform work for the Town can demonstrate their ability to provide the necessary expertise and resources to complete the work required.
- c) Projects that could be considered for pre-qualification include, but are not limited to the following:
 - 1) Projects with a large cash flow (i.e. greater than \$1.5 million);
 - 2) Construction projects that require specific expertise or equipment; or
 - 3) Consulting projects that require specific expertise.
- d) Selection of pre-qualified vendors will be based on the evaluation criteria disclosed within the document. An evaluation team shall review all compliant submissions against the established criteria.
- e) Evaluation team members participating in a RFPQ evaluation, must disclose any perceived, possible or actual conflicts of interest.
- f) As a result of pre-qualification, the Town will only allow those who are pre-qualified to participate in the bidding process for the scope of work and/or services as specified in the procurement document.

20.0 RECEIPT OF BIDS

- 20.1** All sealed Tenders, and Request for Proposals, must be received at the location identified by the department issuing the request. The number of bids issued, number of bids received and the name of the bidders is confidential and must not be divulged prior to the tender opening, except in the case of construction requests for tenders where sub-trades may need to know what general contractors are considering submitting tenders.
- 20.2** Where a bid request is solicited for electronic submissions, every sealed bid received within the time specified in a bid request shall be unsealed and extracted utilizing an electronic bidding system. Each submission and its price will be posted within 48 hours to the electronic bidding system.

21.0 BID ANALYSIS

Bid submissions shall be analyzed by the initiating Department staff and a recommendation made. The dollar amount will determine which level of approval is required. Prior to the undertaking of the work the Department Head is to ensure all the required documentation such as insurance certificates, bonding and CCDC contracts are in place.

22.0 BID IRREGULARITIES

Bid irregularities are defined in Schedule A.

23.0 BIDS WITH EQUAL TOTAL PRICES OR GREATER THAN BUDGET

- 23.1** If two low Bids are found to be equal in price, quality and service, the successful bidder shall be determined by coin toss. The coin toss shall be performed by the Department Head in the presence of the tied bidders should they wish to attend.
- 23.2** In the event that a project is over budget but meets all of the other criteria, the CAO is authorized to approve the transfer of unspent funds from like projects which form part of the approved budget.
- 23.3** Where a contract contains an option for renewal, the contract renewal term may be executed by the approval authority if the supplier performance is satisfactory and the extension is in the Towns best interest.

24.0 PROCESS FOR REDUCING COST OF OVERBUDGET BID SUBMISSIONS

- 24.1** If the lowest tender is within 10% of the budget amount the Town has the right to reject all bids or negotiate with the low bidder.
- 24.2** If the lowest bid is more than 10% higher than the budget amount the Town has the right to reject all bids, negotiate with the lowest bidder or request potential cost savings from the three lowest bidders and any other bidders who prices are within 10% of the lowest received. All requests and submissions shall be made in writing. Listed sub

trades may not be substituted in this process.

- 24.3** Once potential cost savings have been identified the Town has the right to request a final revised bid submission of the bidders.
- 24.4** Requests for potential cost savings shall be limited to deletions from the scope of work and associated changes or changes of materials and finishes. The Town shall not request pricing of significant design modifications without the approval of the bidder(s).
- 24.5** The approval authority for contract awards and for cumulative change orders that exceed the project budget shall follow the approval process outlined below:

Description	Value	Approval Authority
Contract Award Value	Less than or equal to 10% over project budget and within approval limits	Purchasing Designate, and / or CAO
Cumulative Change Orders	Less than or equal to 10% of the contract and within approval authority	Purchasing Designate, and / or CAO
Contract Award Value	Greater than 10% over budget***	Director of Finance /CAO
Cumulative Change Orders	Greater than 10% of contract value***	Director of Finance /CAO

***For contract award or cumulative change order values equal to or greater than 10% of the budget, the department shall prepare a memo to request authorization for a transfer of funds identifying the account(s) and the background information for the request. The memo must be signed off by the Director of Finance confirming that funds are available within the same funding source. All transfers must be approved by the CAO and the Director of Finance. If funds are not available from the same funding source, Council approval is required.

25.0 BID WITHDRAWAL

- 25.1** Requests for withdrawal of a quotation or tender shall be allowed if the request is made before the closing time. Requests must be directed to the Department Head by a Senior Official of the company with a signed withdrawal confirming the details. Telephone requests will not be considered. The withdrawal of a tender does not disqualify a bidder from submitting another tender on the same contract.
- 25.2** Should a bidder wish to withdraw their bid subsequent to the closing time or fails to proceed with the contract, the Town shall first obtain legal advice. At a minimum the bidder may forfeit their bid security and be prohibited from bidding on future opportunities for a period of one year.
- 25.3** The Town reserves the right to withdraw any posted tenders, quotations and Requests for Proposal prior to closing. Such withdrawal will be posted as an Addendum. The Town also reserves the right to accept or reject any bids.

26.0 DISPUTE RESOLUTION

- 26.1** Disputes shall be resolved as follows:

- a) Meeting between the bidder, department representative making the purchase and the Director of Finance.
- b) If (a) does not lead to a resolution the decision may be appealed to the Chief Administrative Officer.
- c) If (b) does not lead to a resolution, the decision may be appealed to Council.

27.0 DISPOSAL OF SURPLUS GOODS

27.1 The Department Heads shall, from time to time, dispose of any surplus goods not required by the Town by way of:

- a) sealed bid,
- b) sale by auction or consignment,
- c) direct negotiation with buyers,
- d) donation to a charitable organization.

27.2 No employee, member of Council or the public shall be allowed to purchase any surplus goods directly from the Town.

27.3 Surplus goods and/or products, at the discretion of the Department Head involved, may become the property of the Contractor, to be disposed of at their discretion.

28.0 SOURCE SELECTION CRITERIA

28.1 The Town uses the following criteria for the selection of the method for the acquisition of goods/services:

- a) total dollar value as estimated for the product/project;
- b) availability of vendors capable of supplying product;
- c) pre-determined qualification of vendors/suppliers;
- d) nature of need of product, such as an emergency situation which requires immediate attention.

29.0 SOURCE SELECTION METHODS AND APPROVAL AUTHORITY

29.1 The Town uses the following methods of purchasing Goods and Services:

- 1) Small Purchases (Up to \$2,500)
- 2) Informal Quotation (\$2,501 to \$10,000)
- 3) Formal Quotation (\$10,001 to \$50,000)
- 4) Sealed Tender (Greater than \$50,000)
- 5) Request for Proposal

- 6) Sole Source Purchases
- 7) Purchase at Public Auction
- 8) Emergency Purchases

Dollar Amount	Authorization Required	Process
Up to \$2,500	Any employee authorized by the Department Head	Comparison shopping
\$2,501 to \$10,000	Department Head or designate	Minimum 3 written prices
\$10,001 to \$50,000	Department Head	Minimum 3 quotations
Greater than \$50,000	Department Head, award approved by CAO and Clerk, tender award to be disclosed in monthly Department Report to Council	Issue of tender document, advertised and sealed bids

30.0 SMALL PURCHASES (Up to \$2,500)

30.1 A Small Purchase is one in the amount up to \$2,500 and is for relatively low value and low risk purchases. Comparison pricing should be done where practical. Purchases of a small value, under \$100 may be made via a petty cash fund.

31.0 INFORMAL QUOTATION (\$2,501 up to \$10,000)

31.1 For purchases greater than \$2,500 but less than \$10,000, the Department Head is first to obtain at least three (3) prices in writing (emails are acceptable) whenever possible.

32.0 FORMAL QUOTATIONS (\$10,001 up to \$50,000)

32.1 For purchases greater than \$10,000 but less than \$50,000, the Department Head is first to obtain at least three (3) written quotations whenever possible.

Quotation documents and specifications can be issued and received by e-mail or fax transmission at the Department location.

33.0 SEALED TENDERS (\$50,001 and up)

33.1 For purchases exceeding \$50,000 the competitive sealed tender bidding will be the source selection used.

34.0 REQUEST FOR PROPOSAL

34.1 A Request for Proposal is used when the goods/services are of a highly specialized or

flexible nature, such as telecommunications or computer equipment. This allows the Town to generalize the description of the project and this in turn has the vendors provide their bids on the latest and best products in their line.

- 34.2** Proposals shall be received in a public opening and securities confirmed, where applicable, but bid prices shall not be read out.

35.0 SOLE SOURCE PURCHASES

- 35.1** The procurement may be conducted using a Sole Source process if the goods and/or services are available from only one supplier by reason of: statutory or market based monopoly; competition is precluded due to the application of any Act or legislation or because of the existence of patent rights, copyrights, licence, technical secrets or controls of raw material; or the complete item, service, or system is unique to one supplier and no alternative or substitute exists.

36.0 SINGLE SOURCE PURCHASES

- 36.1** Single Source means that there is more than one source of supply in the open market, but only one source is recommended due to predetermined and approved specifications.

- 36.2** The procurement may be conducted using a Single Source process if the goods and/or services are available from more than one source, but there are valid and sufficient reasons for selecting one supplier in particular, being any of the following:

- a) An attempt to acquire the required goods and/or services by soliciting competitive bids has been made in good faith, but has failed to identify more than one willing and compliant supplier;
- b) The confidential nature of the requirement is such that it would not be in the public interest to solicit competitive bids;
- c) There is a need for compatibility with goods and/or services previously acquired or the required goods and/or services will be additional to similar goods and/or services being supplied under an existing contract (i.e. contract extension or renewal);
- d) The required goods and/or services are to be supplied by a particular supplier(s) having special knowledge, skills, expertise or experience;
- e) The goods are purchased under circumstances which are exceptionally advantageous to the Town, such as in the case of a bankruptcy or receivership.

37.0 EXCEPTION BASIS

The CAO has authority to award to a business as a result of a negotiation with selected vendors on an exception basis up to an annual amount of \$50,000, or higher with Council approval, under the following circumstances:

- a) Where prior open competitive processes have clearly pointed to one or a few suppliers and the CAO is confident that the issuance of a public tender would return similar results;
- b) Where the cost of a public tender process is felt to outweigh any cost savings that may be enjoyed as a result of the process;
- c) Where the extension of an existing contract is in the best financial/operational interest of the Town;
- d) Where the number of potential vendors who could provide the good/service are limited such that it is more efficient to selectively invite bids rather than issue an open tender document;
- e) Where goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise confidentiality, cause economic disruption or otherwise be contrary to the public interest;
- f) Where time is of the essence

38.0 EQUIPMENT REPAIRS

In the case of equipment repairs for amounts not exceeding \$10,000, the Department Head shall be authorized to select from various vendors not solely on the basis of cost, but also on ability, quality of workmanship, service availability, overall performance and experience without first obtaining quotations.

39.0 PURCHASE AT PUBLIC AUCTION

In instances where a department wishes to purchase through public auction in an amount in excess of \$10,000, on an approved budgeted expenditure the Department Head shall first obtain approval from the Director of Finance.

40.0 EMERGENCY PURCHASES

40.1 The Purchasing Designate shall be authorized to make emergency purchases in excess of \$50,000 upon the approval of a Director. The Director shall advise the CAO by memo. The memo shall include the details of the emergency purchase and the source of funding. The CAO will determine whether a report to Council is required.

40.2 Emergencies include, without limitation:

- a) the welfare and protection of persons, property or the environment; or
- b) an imminent or actual danger to the life, health or safety of an official or an employee while acting on the Town's behalf; or
- c) an imminent or actual danger of damage to or destruction of real or personal property belonging to the Town; or
- d) an unexpected interruption of an essential public service; or

- e) an emergency as defined by the Emergency Management and Civil Protection Act, R.S.O. 1990, Chapter E.9 and the emergency plan formulated there under by the Town; or
- f) a spill or pollutant as described by Part X of the Environmental Protection Act, R.S.O. 1990, Chapter E.19 and, 12.2.6 mandate of a non-compliance order.

41.0 LONG-TERM TENDERS/QUOTATIONS

Long-term tenders and quotations may be entered into for everyday goods and services when the following conditions apply:

- a) To obtain satisfactory pricing;
- b) To provide uniformity within the Town;
- c) To maintain departmental inventories as required;
- d) To reduce the amount of paperwork by eliminating day to day issuing of Purchase Orders and invoicing.

42.0 PURCHASING PROCESS REVIEW

The Director of Finance may randomly review departmental purchasing related files on an on-going basis to review the effectiveness and integrity of the processes and policy adherence. Every five (5) years this policy will be reviewed with a report being made to Council.

43.0 PURCHASING PROCEDURES

Purchasing procedures as determined by the Director of Finance are to be used as a guideline and for information on purchasing goods and services in compliance with this policy.

44.0 EXEMPTION BY COUNCIL

The CAO or Director may request exemption from any or all of the purchasing mechanisms outlined in this Policy by submission of a report requesting the same to Council. Such exemption may be granted by resolution. This does not apply to the exclusions that are identified in Section 47 of this Policy.

45.0 TECHNOLOGY SOLUTIONS

All technology solutions that will be connected to a Town system or network including but not limited to computer equipment and peripherals, software solutions, telephone and cellular equipment, PDA's and portable computing devices, must consult with IT prior to issuing the request.

46.0 NO LOBBYING

- a) No bidder shall contact any member of Council, local board or any employee of the Town to attempt to influence the award of the contract. Any activity designed to influence the decision process, including but not limited to contacting any member of Council, local board or employee of the Town for such purposes as meetings of introduction, social events, meals or meetings related to the selection process, will result in disqualification of the bidder for the project to which the influential activity is deemed to be directed. Notwithstanding the above, this prohibition does not apply to meetings specifically scheduled by the Town for presentations or negotiations, or to questions of staff for clarification of the Town's requirements.
- b) In addition, no bidder who has been awarded the contract shall engage in any contract or activities in an attempt to influence any member of Council, local board or any employee of the Town with respect to the purchase of additional enhancements, options or modules. However, a contractor may communicate with staff, for purposes of administration of the contract during the term of the contract.
- c) The determination of what constitutes influential activity is in the sole discretion of the Town acting reasonably, and not subject to appeal.
- d) In addition, no member of Council, local board or any employee of the Town shall contact bidders in an attempt to influence the award of a contract. Parts a) through c) of this clause shall apply in reverse for Council Members, local boards and employees of the Town.

47.0 EXCLUSIONS

The goods and/or services listed below are not subject to the competitive procurement requirements in this Policy, including, but not limited to:

- a) Registration, accommodation and tuition fees for conferences, conventions, courses and seminars;
- b) Travelling expenses;
- c) Magazines, books and periodicals;
- d) Membership fees, dues and subscriptions;
- e) Payroll deduction remittances;
- f) Insurance program;
- g) Insurance claims, legal settlements and grievance settlements;
- h) Medical exams;
- i) Licences (for example, vehicle, elevators, radios);
- j) Ongoing maintenance and annual license fees to maintain functionality of existing computer hardware and software;
- k) Purchase of replacement parts where the original equipment manufacturer (OEM) is the sole provider of that equipment;

- l) Financial services respecting the management of financial assets and liabilities (i.e. treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution or credit rating agency;
- m) Debt payments;
- n) Purchase of investments;
- o) Subsidies, grants and loan;
- p) Utility charges purchased directly from a utility provider (a competitive process must be used to purchase from an Energy Retailer);
- q) Advertising services required in radio, television, newspaper or magazines;
- r) Professional services such as medical professionals, temporary staffing agencies, interpreter fees and transcription fees for POA, mediators and arbitrators. Legal and realty services are exempt from this Policy;
- s) Acquisition, Lease or Sale/Disposal of Real Property or development of Town supported and/or funded housing projects including affordable housing projects are not subject to this Policy. Existing Town By-Law 08-4429; are in place to guide these processes;
- t) Public/guest speakers, individuals or ensembles that offer creative content for presentation to others;
- u) Government agencies, regulatory bodies, licensing agencies, public authorities and not-for-profit organizations accountable to the Ontario government and municipalities to which the County is required to remit to or pay a fee;
- v) Providers of community services (as part of Town-approved programs and projects), unless required by a senior level of government.

48.0 CONFLICT OF INTEREST

Elected officials, employees and volunteers are expected to avoid actual or perceived conflicts of interest and are to abide by the provisions of the Council Code of Conduct and Municipal Conflict of Interest Act. In the case of a tender or RFP, all employees of the Town are prohibited to participate. Any elected official, as defined in the Municipal Conflict of Interest Act, shall notify council of their participation.

49.0 DEFINITIONS

For the purposes of this policy, the following words mean:

“Accessibility” means a general term used to describe the degree of ease that something (e.g., device, service and environment) can be used and enjoyed by persons with a disability. The term implies conscious planning, design and/or effort to ensure it is barrier-free to persons with a disability, and by extension, highly usable and practical for the general population as well;

“Acquisition” means any form of procurement, purchase, lease or rental of goods

and/or services;

“Applicable Law” means any and all requirements under or prescribed by the common law, and any and all applicable international laws, federal, provincial, regional, local or municipal laws, trade agreements, statutes, codes, acts, permits, licenses, orders, by-laws, rules, policies, regulations and, that may now, or at any time hereafter be applicable, including without limitation, the Freedom of Information and Protection of Privacy Act, Municipal Freedom of Information and Protection of Privacy Act, Occupational Health and Safety Act, Workplace Safety and Insurance Act, Environmental Protection Act, Municipal Act, Accessibility for Ontarians with Disabilities Act, and the Discriminatory Business Practices Act;

“Authority or Authorized” means the right to conduct the subject task as directed by Council either through resolution or through the approval of the annual departmental budget (budget process and adoption);

“Authorized” in relation to a person, means authorized by this policy to act on behalf of the Town to: (i) initiate bid requests and other forms of procurement activities; (ii) govern the conduct of a bid request; and (iii) make an award;

“Award” means the approval given by the authorized person to enter into a contract/agreement and occurs when a submission is formally accepted by the Town, either by Council or by delegated authority as permitted by this policy;

“Bid” means any tender, quotation, offer or other form of submission made by a prospective vendor in response to a bid request that is subject to acceptance or rejection by the Town;

“Bid Document” or “Bid Documents” means any document issued by the Town pursuant to this policy and used in connection with a procurement process;

“Bid Request” means a written request or other formal request by the Town in connection with the provision of goods and services including but not limited to an informal quotation, Request for Quotation, Request for Pre-Qualification, Request for Tender, Request for Proposal, Request for Expression of Interest, Calls for Tenders, or other form of acquisition to the purchasing designate pursuant to this policy;

“CETA” means the Comprehensive Economic Trade Agreement, Chapter Nineteen, Government Procurement, as may be updated and amended from time to time;

“CFTA” means the Canadian Free Trade Agreement, as may be updated and amended from time to time;

“Chief Administrative Officer” or **“CAO”** means the Chief Administrative Officer for the Town or his/her designate;

“Clerk” means the Clerk of the Town or his/her designate;

“Closing Time” means the place, date and time set by the bid documents for receipt of

responses.

“Conflict of Interest” means:

- a. situation or circumstance, real or perceived, which could give a supplier an unfair advantage during a procurement process or compromise the ability of the supplier to perform its obligations under its contract; and/or
- b. situation where a personal, business or other interest of an elected or appointed official, officer or employee of the Town is, or can be reasonably perceived to be, in conflict with the interest of the Town, and includes but is not limited to:
 - i. the giving or receiving of direct or indirect personal gain or benefit, or a direct or indirect advantage or privilege, by any person or business that offers goods and/or services to the corporation;
 - ii. a direct or indirect interest in any business that provides goods and/or services to the Town;
 - iii. a conflict of interest as defined in the Town’s Code of Conduct as may be amended from time to time;

“Consultant” means a person or firm, who by virtue of a particular expertise, is hired by the Town to undertake a specific task or assignment that may include designing specifications and preparing plans or programs;

“Contract” means the acceptance of the Town of a bid in the form of a duly signed agreement or purchase order between a chosen bidder and the Town for the provision of goods and/or services;

“Council” means the Council of the Town;

“CPTPP” means the Comprehensive and Progressive Agreement for Trans Pacific Partnership, as may be updated and amended from time to time;

“Department” means any department or division of the Town;

“Director” means the director of a department or his/her designate;

“Director of Finance” means the Director of Finance/Treasurer for the Town or his/her designate;

“Disability” or **“Disabilities”** shall have the same meaning as that in the Accessibility for Ontarians with Disabilities Act, 2001, S.O. 2001, c.11;

“Electronic Bidding” or **“E-Bids”** means a computer based system that provides suppliers with access to information related to open competitive procurements;

“Emergency” means an urgent situation where the immediate purchase of goods and

services is essential to comply with any applicable law or lawful order; or to prevent delays in the work of any department that is a result of danger to life or damage to property, or threat or risk to public health and safety;

“Employee” means an employee of the Town;

“Evaluation Criteria” or “Performance Evaluation Criteria” means the rated criteria as set out in a notice of intended procurement or solicitation which may include but is not limited to supplier qualifications, price and other cost or value factors, quality, technical merit, environmental characteristics, and negotiable commercial terms of delivery.

“Goods and Services” means, in relation to procurement, all supplies, materials, equipment, moveable property, vehicles and other personal property required for the operations or activities of the Town, but does not include those goods listed in Appendix “B” of this policy;

“Litigation” means a situation where a person has commenced an application, action or other legal proceeding against the Town or the Town has commenced an action, application or other legal proceeding against a person, and in either case, the Town’s interest in the proceeding is not insured by the Town’s insurance policy;

“Mayor” means the head of Council or his/her designate;

“Pending Litigation” occurs where a claim, application or other legal proceeding that is uninsured by the Town for money or other relief, and includes a threat of legal proceedings, or a demand for compensation, that has been made in writing by either a person or the Town against the other, but no formal proceedings have been commenced;

“Person” includes individuals, corporations, partnerships, firms and trusts and may include Council;

“Policy” refers to the Town of Middlesex Centre Procurement of Goods and Services Policy;

“Procurement” means a goods, services or construction contract involving a purchasing, leasing, renting or exchange transaction, arrived at by a competitive or non-competitive process. Procurement also includes material(s) management, contract management, advisor services and implementation and adherence to best practices;

“Purchase / Procure” means the acquisition of goods and/or services by or on behalf of the Town by way of purchase, lease or rental;

“Purchasing Designate” means the employee or contracted agent responsible for a procurement initiative as appointed by a director or CAO of the organization;

“Purchase Order” means a written offer from the Town to purchase goods and/or services in the form prescribed by the Director of Finance;

“Quotation” means a binding offer to supply certain specified goods and services at a specific rate, price, terms of sale, and description of goods and/or services in response to the information contained in a call for quotations;

“Request for Expressions of Interest” or “REIS” means a general market research to determine vendor interest in a proposed procurement, used prior to issuing a call for bids or proposals and not intended to result in the award of a contract. All REIS shall be approved in advance by the CAO;

“Request for Pre-Qualification” or “RFPQ” is a procurement process used to prequalify potential suppliers in which factors such as financial capability, experience, and reputation are considered in order to develop a list of qualified suppliers for subsequent participation in an invitational bid opportunity;

“Request for Proposal” or “RFP” means a competitive procurement process for obtaining unique proposals designed to meet broad outcomes to a complex problem or need for which there is no clear or single solution;

“Request for Quotation” or “RFQ” means a competitive procurement process for obtaining quotations by the Town for the provision of goods and/or services made in accordance with the provisions of this by-law;

“Request for Tender” or “RFT” means a competitive procurement process for obtaining competitive bids based on precisely defined requirements for which a clear or single solution exists;

“Services” includes any:

- a. professional, consulting or training services;
- b. services associated with the acquisition of goods;
- c. services associated with the construction, demolition, maintenance, repair or upkeep of any buildings, premises or goods;
- d. the rental of any real property for a short duration of time;
- e. intangible products not having a physical presence; or
- f. any other service required by and for the Town, but does not include those services as listed in Exclusion Section of this policy.

“Single Source” means there is more than one source in the open market but only for reasons of function or service one supplier is recommended for consideration of the particular goods and/or services;

“Sole Source” means there is only one source of supply of a particular good or service;

“Town” means the Corporation of the Town of Ingersoll;

“USMCA” means the United States-Mexico-Canada Agreement, as may be updated and amended from time to time;

“Vendor” means any person supplying goods and/or services to the Town in accordance with the terms of a contract.

Schedule “A” BID IRREGULARITIES

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 effects 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. A bid with major deviations must be rejected.

A “**minor deviation**” 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 bidder will be permitted to correct a minor irregularity.

Mathematical Errors – Corrections by Staff

Errors in mathematical extensions and/or taxes and unit prices will be corrected by the Town and the bidder will be notified of the correction.

Vendor Withdrawal

In the event that the vendor withdraws their bid due to the identification of a major irregularity, the vendor will forfeit their bid deposit and the Town has the right to disqualify such vendor from participating in future bid opportunities for a period of up to one year.

BID IRREGULARITIES

ITEM	DESCRIPTION	MAJOR	MINOR	ACTION
1.	late bids	X		automatic rejection
2.	bids completed in pencil	X		automatic rejection
3.	bid surety not submitted with the bid when the bid request 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 X		automatic rejection 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 X		automatic rejection automatic rejection
6.	OTHER BID SECURITY: Cheque which has not been certified	X		automatic rejection
7.	pricing, specifications page or signature pages missing or unsigned	X		automatic rejection

ITEM	DESCRIPTION	MAJOR	MINOR	ACTION
8.	insufficient financial security (ie: no deposit or bid bond or insufficient deposit)	X		where security is required and amount of security is specified in request, automatic rejection
9.	bid received on documents other than those provided in request	X		not acceptable unless specified otherwise in the request
10.	bid document does not acknowledge addendums issued	X		automatic rejection
11.	EXECUTION OF BID DOCUMENT proof of authority to bind is missing	X		automatic rejection
12.	part bids (all items not bid)	X or	X	acceptable unless complete bid has been specified in the request
13.	bids containing minor clerical errors		X	2 working days to correct initial errors
14.	uninitialed changes to the request documents which are minor		X	2 working days to correct initial errors
15.	alternate items bid in whole or in part		X	available for further consideration unless specified otherwise in request
16.	unit prices in the schedule of prices have been changed but not initialed		X	2 working days to correct initial errors
ITEM	DESCRIPTION	MAJOR	MINOR	ACTION
17.	other mathematical errors which are not consistent with the unit prices		X	2 working days to correct initial corrections
18.	pages requiring completion of information by vendor are missing or incomplete	X		automatic rejection
19.	bid documents which suggest that the bidder has made a major mistake in calculations or bid	X or	X	consultation with a Solicitor on a case-by-case basis
20.	Bid qualified or restricted by a statement or alteration added to any part of the documents	X		automatic rejection