

Purchasing and Tendering for Goods, Services and Construction Projects Policy



Purpose

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

Definitions

- a) “Buying Groups” means a procurement organization created for the purchasing requirements and activities of its sole or several member public sector entities and excludes buying groups designated through a public tender process;
- b) “CAO” means the Chief Administrative Officer of the Municipality;
- c) “Council” means the Council of the Municipality;
- d) “Director” is the senior manager of a department within the Municipality that reports directly to the CAO;
- e) “Environmental Sustainability” with respect to procurement means preventing or reducing greenhouse gas emissions, energy and water consumption, waste, and toxicity, and mitigating as much as possible any other negative environmental impacts. It also includes positive actions to protect the environment, such as increasing the circularity of the economy and supporting clean, renewable energy generation.
- f) “Manager” is a person that oversees a division within a department and reports to the Director;
- g) “Municipality” means the Municipality of Colchester;
- h) “Procurement Web Portal” means the public procurement website maintained and operated by the Government of the Province of Nova Scotia;
- i) "Public Tender" includes "Requests for Proposals" ("RFP") as well as traditional tenders and "tender" in this document includes a proposal submitted under an RFP process, unless the context requires otherwise.
- j) “Standing Offer” means a continuous offer from a pre-approved supplier to supply Goods, Services or Construction to the Municipality at specific prices for a specific period of time, when and if required by the Municipality;
- k) Supervisor means a person who oversees a team of employees within a department and reports to a manager.

Policy

1. Procurement of goods, services, and construction projects shall be undertaken through a competitive bid process consistent with the Nova Scotia Public Procurement Act and the Municipal Government Act in either of three ways:
 - 1) Bid by invitation
 - 2) Public tender
 - 3) Buying Group
 2. a) Council reserves the right to exempt a good or service from the provisions of this Policy. Staff may put forward recommendations as appropriate. The exemption may be granted for the following reasons:
 - i) Certain good(s), services, or construction projects may only be provided by one qualified supplier or in limited cases, only a few suppliers are known;
 - ii) The opinion of Council is that it is paramount to ensure consistent service delivery procured from existing service providers;
 - iii) An emergency may require immediate action.
 - b) Where possible, local suppliers will be given preference, as outlined in the awarding of bids and tenders.
 - c) Directors shall have the right to establish measures of performance for successful bidders and to refuse to accept bids from suppliers/contractors who have failed to meet such measures in previous performance of contracts with the Municipality, or to consider those failures in the award of future contracts provided it is properly documented in procurement documents.
3. In this Policy:
- a) Where the value of goods, services, or construction projects dictates what process to use, contract values are to be estimated by staff.
 - b) Where the value of a goods, services or construction projects contract dictates what party makes the award, and where a submitted tender or RFP is based on per unit pricing, the value of the goods and services contract is to be based on calculations by staff using estimates of expected volumes and in all other circumstances in which the value of a contract for goods and services is not readily calculable with certainty, staff is to estimate the contract value and, in particular, in regards to contracts involving ongoing supply of goods or services over the term of the contract, the value for purposes of this Policy shall mean the value over the entire term of the contract.
 - c) Contracts for goods, services, or construction projects not stipulated as having a defined term shall be deemed to be annual contracts and shall be awarded each year.
 - d) Procurement documents shall require that all dollar amounts and values for procurement shall be stated as pre-tax values.
4. Bid by Invitation Process
- a) Where the value of goods, services, or construction projects falls below \$5,000, formal comparison pricing is not required. From time to time, some comparisons are to be done to ensure pricing is competitive.

b) A minimum of three bids are to be solicited in written form as follows:

- i) Where the value of goods is between \$5,000 and \$25,000;
- ii) Where the value of services is between \$5,000 and \$50,000;
- iii) Where the value of construction projects is between \$5,000 and \$100,000.

The written bids are to be kept on file.

c) The CAO can approve exceptions to the bid by invitation section of the Policy for the following reasons:

- i) Certain good(s), services, or construction projects may only be provided by one qualified supplier or in limited cases, only a few suppliers are known in which case discretion can be given for inviting bids that normally would exceed \$5,000;
- ii) Further phases of a similar project or service may best be completed by a supplier familiar with the service or project;
- iii) An emergency may require immediate action;
- iv) Directors may deem that tenders should be used for goods, services, or construction projects that would qualify for the bid by invitation process.

5. Public Tender

- a) Public tender is to be used when the cost of the good exceeds \$25,000, cost of service exceeds \$50,000 and cost of the construction project exceeds \$100,000.
- b) The Municipality is subject to the provisions outlined in the Agreement on Internal Trade (AIT) and Atlantic Procurement Agreement (APA) for public tenders. The tender notification in such circumstances is to be placed on the Municipality's website and linked to or put on the Procurement Services website for the Province of Nova Scotia. It is encouraged that arrangements may also be made for alternate notifications such as trade websites, newspapers, and journals.
- c) When seeking professional services or goods or services or construction projects involving alternate specifications for achieving a desired result, the use of Request for proposal's (RFP's) is encouraged. The RFP document shall generally describe the scope of the good or service or construction project sought and would invite written proposals from prospective suppliers to address the requirements outlined in the RFP.
- d) Tender and RFP documents may contain measurement clauses for expected performance of the contract. The successful bidder's failure to meet such stated expectations may result in rejection of future bids, and/or exclusion from future bidding opportunities.
- e) Tender and RFP documents for construction projects which require trucking services, and which are estimated to exceed \$1,000,000, must contain a provision for prospective bidders regarding use of the Colchester County Truckers Association as outlined in the latest version of the Province of Nova Scotia's 80-20 Rule Manual, except where trucking services are required for on-site trucking only.
- f) Notwithstanding section 5 a) of this Policy the Municipality may opt to utilize standing offers or buying groups as an alternative to procurement through a public tender provided the provisions for use of buying group and standing offers contained in this policy are met.

6. Bonding

- a) All Tenderers must provide Tender Security in the amount of ten percent (10%) of the Estimated Contract Price with their Tender.
- b) Should the Estimated Contract Price be \$250,000 or greater, the Tenderer will be required to provide a Performance Bond and Labour and Material Bond, each in the amount of fifty percent (50%) of the Estimated Contract Price.
- c) Should the Estimated Contract Price be below \$250,000, the Tenderer will have the option of providing the bonds as outlined in item 6b), or may opt to utilize the ten percent (10%) tender security as the Performance and Labour and Material bond for the contract.

7. Buying Groups

- a) Subject to subsections (b) and (c), the Municipality may establish or take part in Buying Groups, including those formed by the Province of Nova Scotia, the Government of Canada or any other public sector entity.
- b) The Municipality shall publish a notice of its participation in a Buying Group at least annually on the Procurement Web Portal. Such notice shall direct potential suppliers to the Buying Group tender notices website if it is different from the Procurement Web Portal.
- c) Any agreements required to formalize the Municipality's participation in a Buying Group shall be approved and signed by the CAO.

8. Standing Offers

- a) The Municipality may establish Standing Offers through a Bid by Invitation, Public Tender, or participation in a Buying Group.
- b) In issuing a call for a Standing Offer, the Municipality shall indicate how subsequent purchases will be made from a supplier under a Standing Offer.
- c) The CAO may negotiate and make modifications to a Standing Offer that they determine to be in the best interests of the Municipality, such as adding or deleting items or extending the duration of a Standing Offer.
- d) For the purposes of contract award, the total estimated value of the Standing Offer including options shall be used to determine the appropriate approval authority.
- e) Where the Municipality has established a Standing Offer for Goods, Services or Construction, it shall be mandatory to use the Standing Offer for the purchase of such Goods, Services or Construction.

9. Environmental Sustainability

- a) The Municipality of Colchester aims to procure environmentally sustainable goods and services where value for money is demonstrated.
- b) Tender and RFP documents are to require bids to identify at a high level any potential adverse environment impacts of the proposed goods or services, such as energy or water consumption, direct and indirect greenhouse gas emissions, embodied carbon emissions, or hazardous waste.

- c) Tender and RFP documents are to require bids to identify any efforts proposed by the bidder to mitigate negative environmental impacts or maximize efficiencies, such as use of refurbished or recycled materials, electric vehicles or equipment, or low carbon, carbon neutral, or carbon negative building materials.
- d) Tender and RFP documents may request that bidders propose goods or services that meet an established environmental standard, such as Electronic Product Environmental Assessment Tool, Energy Star, LEED, or Zero Carbon Building, or use a recognized material or method, such as plant-based insulation or net zero-ready building construction.
- e) Environmental sustainability must be included in the evaluation criteria for all tenders and RFPs and must account for no less than 5% of the total possible score.

10. Evaluation Criteria

- a) Tender and RFP documents are required to outline the evaluation criteria being used to for bid selection.
- b) Evaluation by the Municipality of submissions must be in accordance with the evaluation criteria outlined in tender and RFP documents.
- c) Three methods of evaluation may be used to select a successful bid. The methods of evaluation are:
 - i. Minimum Mandatory criteria. This requires minimum requirements of the solicitation documents must be met.
 - ii. Point rated criteria only. Bid documents contain evaluation criteria which are weighted and points are awarded based on submissions of proponents.
 - iii. Combination method. This evaluation method requires minimum mandatory requirements be met and the submissions are then scored against weighted criteria outlined in the bid documents.

Point rated criteria will include the following considerations of previous performance by the contractor:

- i. Meeting the approved project commencement and completion dates;
- ii. Working within approved budget;
- iii. Adhering to Provincial regulations applicable to the project;
- iv. adhering to approved design drawings and specifications;
- v. Protecting private property adjacent to the work;
- vi. Completing the project without being in default.

Disqualification

The Municipality may disqualify a supplier from participation in any procurements of goods, services, and/or construction if the supplier has:

- i. Failed to honour a bid; or contract;
- ii. Failed to disclose a conflict of interest;
- iii. Been in breach of contract with the Municipality on previous contracts or has a criminal conviction related to goods, services, or construction provided to the Municipality or other buyers.
- iv. Performed inadequately for the Municipality.

11. Authority to Award Contract

- a)
 - i. Whenever the Municipality procures goods for under \$25,000, services for under \$50,000 and construction projects for under \$100,000, the amount of local preference must be clearly set out and defined to prospective bidders. A margin of 2% in the bid price shall be allowed in favour of local suppliers, to a maximum of \$5,000. Local suppliers include businesses physically located within the boundaries of Colchester County, including the Towns of Truro and Stewiacke.
 - ii. An exception to this Policy is allowed if other criteria as deemed by the CAO are more critical to the awarding of the good, service or project than the bid price alone. These criteria may include vendor's past performance, delivery time, quantity, servicing, or quality of goods and services and construction projects.
- b) Where the value of the good or service or construction project falls below \$2,500, the award may be made by the responsible director, manager, supervisor, or employee designated by one of the preceding positions.
- c) Where the value of the good or service or construction project is between \$2,500 and \$50,000, the award may be made by the responsible director or manager or by an employee designated by one of the preceding positions.
- d) Where the value of goods and services and construction projects is between \$50,000 and \$100,000, the CAO may designate a Director to award the contract, or the CAO may award the contract.
- e) The CAO has authority to award the contract provided the recommended tender or RFP has been included in the approved operating or capital budgets and does not exceed the dollar values included in the budget approved by Council.

Provided the recommended tender meets budget constraints of the approved operating or capital budgets, the CAO has the authority to award all contracts. Council may also grant the CAO the authority to award a tender or RFP due to special circumstances such as time sensitivity or urgency of a project or because the award is for professional services such as legal, audit, banking, or engineering.

- f) Where staff does not have the authority to award a contract, the award will be made by Council, but nothing in this Policy precludes staff from seeking advice or direction from Council in relation to the awarding of a contract or from recommending that Council itself award a contract notwithstanding that the contract could be awarded by staff.
- g) In the event of a conflict of interest on the part of a staff member otherwise authorized to award a contract, the award shall be made by the person to whom the conflicted staff member normally reports, and the conflicted staff member shall not participate in the process in any manner.

12. Timeframes

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

13. Lease Arrangements

Lease arrangements are subject to the provisions of this policy.

14. General Procedures for Public Tenders

- a) Potential participants are to be notified by posting on the Municipality's website, Procurement Services website for the Province of Nova Scotia, and other means of soliciting potential participants, such as the use of advertising, and/or direct contact.
 - b) Tender specifications shall include:
 - i. Issues or criteria that will be used for selection of a successful bidder or proponent, at the discretion of the applicable Director;
 - ii. Any and all appropriate privilege and discretion clauses, included but not limited to notice of the right to refuse bids from prospective bidders based on past performance in previous contracts awarded by the Municipality;
 - iii. The location for delivery of bids or proposals;
 - iv. The means of delivery of bids or proposals must be identified, e.g., whether faxes or emails are acceptable in addition to "hard copy" submissions; and,
 - v. The time and date of closing.
 - c) After the closing time for tenders, tenders shall be publicly opened in the presence of at least one member of senior management and one other employee. Within a reasonable period after the closing date for tenders, the party responsible for awarding the contract will consider the tenders, assess compliance with the detailed criteria, obtain any necessary input or recommendations from affected departments or staff and will make the award or, with the approval of the CAO or Council (depending on which party has authority to award the contract), make a decision not to award the contract and, may or may not re-tender or pursue permissible alternate means of obtaining required goods or services or construction projects.
 - d) All bidders or proponents will be notified of the decision.
15. The contents of this Policy are subject to any legal requirements, including but not restricted to, the provisions of any valid and applicable statute or of any valid and applicable contract.

Clerk's Annotation For Official Policy Book	
Date of Notice to Council Members of Intent to Consider (7 days minimum): <u>August 12, 2024</u>	
Date of Passage of Current Policy: <u>August 29, 2024</u>	
I certify that this Policy was adopted by Council as indicated above.	
<u>Dan Troke</u>	<u>September 12, 2024</u>
Municipal Clerk	Dated

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