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# THE CORPORATION OF THE TOWNSHIP OF GREATER MADAWASKA

## BY-LAW NUMBER 14-2019

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Being a By-law to adopt and maintain policies with respect to its procurement of goods and services and the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public.

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WHEREAS section 270 of the Municipal Act, 2001, S.O. 2001, Chapter 25 provides that a municipality shall adopt and maintain policies with respect to its procurement of goods and services and the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF GREATER MADAWASKA ENACTS AS FOLLOWS:

### **1.0 SHORT TITLE**

This By-law may be cited as the Purchasing By-law.

### **2.0 PURPOSES, GOALS AND OBJECTIVES**

2.1 The purpose, goals and objectives of this By-law and each of the methods of acquisition authorized are:

- a) to encourage competition among suppliers;
- b) to maximize savings for taxpayers;
- c) to ensure service and product delivery, quality, efficiency and effectiveness;
- d) to ensure fairness among bidders;
- e) to ensure openness, accountability and transparency, while protecting the financial and operational best interests of the Township;
- f) to have regard for the accessibility for persons with disabilities to the Goods/Services and Construction purchased by the Township.

### **3.0 DEFINITIONS**

In this by-law the following terms shall have the assigned meanings:

- 3.1 “**Approved Invoice**” means an original supplier’s invoice issued at the time of purchase of low dollar goods or services not exceeding \$10,000 and which bears both the signature of an appropriately authorized employee and appropriate account number(s) and any additionally required information (i.e. purchase numbers);
- 3.2 “**Award**” means the selection of a Bidder/Proponent and their Goods/Services as accepted by the Township.
- 3.3 “**Bid**” means the Bidder’s or Proponent’s offer to sell the Goods/Services to the Township.
- 3.4 “**Bidder**” means, a person, supplier, vendor, contractor; developer or professional, who submits a Bid to the Township.
- 3.5 “**Bid Deposit**” means the form of security required by the terms and conditions of bid solicitation documentation to guarantee that the successful bidder enters into a contract with the Municipality, as required by Section 27 of this by-law;
- 3.6 “**Bid Document**” means a Request for Tender, Request for Quotation, Request for Proposal or other documents that state, the Township’s desire to buy or to consider buying and Bidders/Proponents offer to sell to the Township, the Goods/Services defined in the specifications.

- 3.7 “**Bid Irregularity**” means a deviation between the requirements of a Bid Document request and the information provided in the Bid response.
- 3.8 “**Bid Solicitation**” means a formal request for competitive bids that may be in the form of a Request for Tender, Request for Quotation or Request for Proposal;
- 3.9 “**Chief Administrative Officer (CAO)**” means the Township’s employee with that title or person acting in that capacity as designated by By-Law.
- 3.10 “**Construction**” means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, soil investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering design or architectural work, but does not include professional services related to the construction contract unless they are included in the specifications for the procurement;
- 3.11 “**Contract**” means any agreement, regardless of form or title, for the lease, purchase or disposal of goods, service or construction authorized in accordance with this by-law;
- 3.12 “**Corporate Credit Card**” means a credit card issued to users as a system of payment.
- 3.13 “**Council**” means the Council of the Township of Greater Madawaska.
- 3.14 “**Council Approved Budgets**” means Council approved department or municipal budgets including authorized revisions, or where applicable, Council approved budgets of local boards to which this by-law applies;
- 3.15 “**Department**” means a department as established by the Township from time to time.
- 3.16 “**Department Head**” means the person chosen by the Township to be the head of a Department.
- 3.17 “**Treasurer**” means the Township’s employee with that title or person acting in that capacity as designated by By-Law.
- 3.18 “**Emergency**” means a situation, or the threat of an impending situation, where the purchase of goods and services is required immediately, to mitigate the effects of the situation on the environment, the life, safety, health and/or welfare of the general public, or the property of the residents of the Municipality, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level;
- 3.19 “**EOI**” means Expression of Information, a process whereby the Township uses a focused market research tool to determine Bidder interest in proposed procurement.
- 3.20 “**Estimates**” means the amount approved by Council in the annual budget.
- 3.21 “**Formal Process**” means the request for Bid is issued in writing, on prescribed forms. Bidders/Proponents must submit their Bid, using these forms in a sealed package, by a predetermined time. Formal processes must follow the provisions detailed in the various procurement related ISO Standard Operating Procedures.
- 3.22 “**Goods/Services**” means all goods and services, as set out in the Bid Document, which include all supplies, materials, equipment, general maintenance and services, construction and works contracts, leases, rentals, and repairs of equipment; consulting and professional services, including the services provided by architects, engineers, designers, real estate appraisers, management or financial consultants, brokers or lawyers and any other consulting or professional service rendered on behalf of the Township.

- 3.23 **“Informal Process”** means the request for Bid may or may not be published and received on prescribed forms, by a predetermined time. Depending on the purchase value, Bids may be received electronically, verbally or in written formats.
- 3.24 **“ISO”** means the International Organization of Standardization.
- 3.25 **“Lowest Compliant Bid”** means the bid that would provide the Municipality with the desired goods, service or construction at the lowest total acquisition cost, meets all the specifications and contains no irregularities requiring automatic rejection;
- 3.26 **“Lowest or Any Bid Not Necessarily Accepted”** means that the Municipality reserves the right to not accept a lone bid or reserves the right to accept a bid other than the lowest if other conditions are met; which conditions must be stated in the tender documents.
- 3.27 **“Major Irregularity”** means an irregularity in a Bid, such that a strict compliance component is missing, which is required at the time of Bid submission, affecting the price, quality, quantity or delivery and is material to the Award. If the irregularity is permitted, the Bidder/Proponent could gain an unfair advantage over competitors and therefore results in the automatic rejection of the Bid.
- 3.28 **“Minor Irregularity”** means an irregularity in a Bid, such that a Bid submission is substantially compliant, and the irregularity affects form rather than substance. The effect on the price, quality, quantity or delivery is not material to the Award. If the irregularity is permitted, the Bidder/Proponent would not gain an unfair advantage over competitors. The Bidder/Proponent will, if any, be allowed time to clarify/correct the submission, only with respect to the Minor Irregularity.
- 3.29 **“Municipality”** means the Corporation of the Township of Greater Madawaska;
- 3.30 **“Municipal Solicitor”** means the Municipal Solicitor or the solicitor retained by the Municipality to act on behalf of the Corporation of the Township of Greater Madawaska, or designate;
- 3.31 **“Non-competitive Procurement”** is a method of procurement that is not competitive which is to be used in specific circumstances. It includes sole sourcing and single sourcing. It is used to allow for procurement in an efficient and timely manner without seeking competitive pricing or to provide for additional exceptions as specified in this by-law.
- 3.32 **“Petty Cash”** means a small amount of discretionary funds in the form of cash used for expenditures where it is not feasible to make the disbursement by any other means.
- 3.33 **“Professional Services”** means persons having a specialized knowledge or skill for a defined Service requirement including, architects, engineers, designers, management and financial consultants; and firms or individuals having specialized competence in environmental, planning or other disciplines;
- 3.34 **“Proposal”** means an offer submitted in response to a Request for Proposal, acceptance of which may be subject to further negotiation.
- 3.35 **“Proponent”** means a person, supplier, vendor, contractor; developer or professional submitting a Proposal.
- 3.36 **“Purchasing”** means the Purchasing Section of the Finance Department.
- 3.37 **“Purchase Order”** means a written offer to a supplier formally stating all terms and conditions for the purchase of goods, services or construction or a written acceptance of an offer received in accordance with this By-law.
- 3.38 **“Quotation”** means a formal statement of the estimated cost of a job, good, service or construction or an offer to sell goods and services to the Municipality or an offer to purchase surplus goods from the Municipality.

- 3.39 **“Request for Information”** a process whereby the Township uses a general market research tool to determine what products and/or services are available; to scope out business requirements; and/or estimate project costs.
- 3.40 **“Request for Proposal”** or RFP means a bid solicitation that is used to acquire goods, service or construction, on variable terms the suitability of which is determined upon multiple factors and which may result in further direct negotiation with one or more bidders. It is used to implement an effective, objective, fair, open, transparent, accountable and efficient 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. It is used to select the proposal that earns the highest score and meets the requirements specified in the competition, based on qualitative, technical and pricing considerations.
- 3.41 **“Request for Quotation”** or RFQ is used to implement an effective, objective, fair, open, transparent, accountable and efficient process for obtaining competitive bids based on precisely defined requirements for which a clear or single solution exists. With this method of procurement the bid solicitation is done primarily on an invitational basis from a pre-determined bidder’s list but may be supplemented with public advertising of the procurement opportunity.
- 3.42 **“Request for Tender”** or RFT is used to implement an effective, objective, fair, open, transparent, accountable and efficient process for obtaining competitive bids based on precisely defined requirements for which a clear or single solution exists. An RFT is used when the goal is to accept the lowest bid meeting the requirements specified in the competition.
- 3.43 **“Request for Standing Offer (RFSO)”** means a process used to solicit standing offers to provide goods and services on an as-and-when required basis, at firm prices, as per established terms and conditions. It must clearly state the requirement, the evaluation method and selection criteria, the call-up procedures, the ranking methodologies, whenever applicable, to be used for making call-ups against the authorized standing offer(s), and all terms and conditions applicable to the contract that is brought into effect, as a result of any call-up.
- 3.44 **“Security Deposit”** means a deposit of securities by a supplier that the Township may convert under defined conditions to complete the supplier’s contractual obligation.
- 3.45 **“Selection Committee”** means a committee comprised of at least three staff members who are knowledgeable about a project under review and charged with the responsibility of evaluation of proposal submissions. The CAO shall appoint the committee members.
- 3.46 **“Services”** includes all professional and consulting services, all services in relation to real property or personal property including, without limiting the foregoing, the delivery, installation, construction, maintenance, repair, restoration, demolition or removal of personal property and real property and all other services of any nature and kind save and except only services to be delivered by an officer or employee of the Municipality in accordance with terms of employment;
- 3.47 **“Single Sourcing”** means the procurement of Goods/Services from a particular Bidder/Proponent rather than through the solicitation of Bids from multiple Bidders/Proponents who can also provide the same/similar Goods/Services.
- 3.48 **“Sole Sourcing”** means the procurement of Goods/Services that are unique to a particular Bidder/Proponent and cannot be obtained from another source.
- 3.49 **“Tender”** means a written detailed offer where the estimated value exceeds \$25,000 from a supplier to supply goods, services or construction.

3.50 “**Total Acquisition Cost**” means an evaluation of quality and service in the assessment of a bid and the sum of all costs including purchase price, all non-refundable taxes, warranties, local service costs, life cycle costs, time of completion or delivery, inventory carrying costs, operating and disposal costs for determining the Lowest Compliant bid;

3.51 “**Township**” means The Corporation of the Township of Greater Madawaska.

3.52 “**Treasurer** ” means the Treasurer of the Corporation of the Township of Greater Madawaska or designate.

3.53 “**Vendor of Record Arrangement**” means a procurement process where the municipality seeks out bids or proposals from a select group of vendors with which it has already established a satisfactory business relationship.

3.54 “**Verbal Quotation**” means the receipt of pricing via telephone or in person, and will include the retention of written documentation of the conversation in support.

To establish the definition of any other purchasing term not herein included, reference shall be made to the latest edition of the National Institute of Governmental Purchasing Guide.

#### **4.0 GENERAL PROCUREMENT POLICY APPLICATION**

4.1. This by-law shall apply to the purchase of goods, services and/or construction for the purposes of all municipal departments.

4.2. This by-law shall not apply to the acquisition or disposal of any real property or to any lease, right or permission relating to the use or occupation of real property.

4.3 This by-law is at all times subject to compliance with By-law 10-2018 being a by-law to delegate certain powers and duties to Officers and Employees of the Corporation of the Township of Greater Madawaska.

#### **5.0 RESPONSIBILITIES AND AUTHORITIES**

5.1 Department Heads have responsibility for procurement activities within their departments and are accountable for achieving the specific objectives of the procurement project.

5.2 Department Heads and the CAO have authority to award contracts in the circumstances specified in this By-law, provided the delegated power is exercised within the limits prescribed in this By-law and the requirements of this By-law are met.

5.3 The CAO has the authority to instruct Department Heads not to award contracts but to submit recommendations to Council for approval. The CAO may provide additional restrictions concerning procurement, where such action is considered necessary and in the best interest of the Township.

#### **6.0 REQUIREMENT FOR FUNDING APPROVAL**

6.1 Net Departmental expenditures are authorized by Council each year as part of either the Operating or Capital Budget process. Pending Council's approval of proposed budgetary estimates, Department Heads are authorized to spend up to 50% of the previous year's approved Operating Budget. Department heads are not authorized to overrun net departmental operating budgets, except in accordance with this Policy.

6.2 The exercise of authority to award a contract is subject to the identification and availability of sufficient funds in appropriate accounts, within Council approved estimates.

6.3 Where goods and services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a contract is subject to:

- a) the identification and availability of sufficient funds in appropriate accounts for the current year within Council approved estimates,
- b) the requirement for the goods or services will continue to exist in subsequent years and in the opinion of the Treasurer, the required funding can reasonably be expected to be made available, and
- c) the contract has a provision in it that the supply of goods or services in subsequent years is subject to the approval by Council of the department estimates to meet the proposed expenditures.

## **7.0 RESTRICTIONS**

7.1 No requirement may be divided into two or more parts to avoid the application of the provisions of this By-law.

7.2 Purchase requisitions for services, where the services could result in the establishment of an employee - employer relationship, are not permitted.

7.3 Where this By-law identifies delegated authority limits for contract awards, the value of a contract shall be the sum of:

- a) all costs to be paid to the supplier under the contract;
- b) all taxes, and
- c) less any rebates.

## **8.0 COUNCIL APPROVED CONTRACTS**

8.1 Despite any other provision of this By-law, the following contracts are subject to Council approval:

- a) Any contract requiring approval from the Ontario Land Tribunal,
- b) Any contract prescribed by Statute to be made by Council,
- c) Where the cost amount proposed for acceptance is higher than the Council approved departmental estimates and the necessary adjustments cannot be made within the Departmental budget,
- d) Where the revenue amount proposed for acceptance is lower than the Council approved departmental estimates,
- e) Where a Substantive Objection emanating from the bid solicitation has been filed with the Treasurer or with the CAO,
- f) Where a major irregularity precludes the award of a tender to the supplier submitting the lowest responsive bid, and
- g) Where authority to approve has not been expressly delegated.
- h) All unbudgeted capital projects must be awarded by Council, regardless of the value.

## **9.0 NOTIFICATION REQUIREMENTS**

9.1 Request for Quotations require the receipt of at least two written quotations where cost is estimated to be up to \$25,000. There is no formal advertising requirement or sealed tenders.

9.2 Request for Tenders require that an advertisement be placed in at least one local newspaper with circulation in all or a major portion of the Township. Notice must also be placed on the Township's website.

If the required expertise is outside of the Township, the Department Head may advertise in the Daily Commercial News, daily newspaper or in a trade publication.

9.3 Request for Proposals with an estimated cost up to \$100,000 are to be invited from qualified firms.



Request for Proposals with costs estimated to be in excess of \$100,000 shall have notices advertised in at least one local newspaper, with circulation in all or a major portion of the Township. Notice must also be placed on the Township's website. The Department Head may elect to use this process for projects valued less than \$100,000.

If the required expertise is outside of the Township, the Department Head may, in consultation with the CAO, advertise in the Daily Commercial News, daily newspaper or in a trade publication.

- 9.4 At the discretion of the Department Head, and in consultation with the CAO, other means of notification, such as MERX, may be used.

## **10.0 PROCUREMENT DOCUMENTATION**

10.1 Procurement documentation shall avoid use of specific products or brand names.

10.2 The use of standards in procurement documentation that have been certified, evaluated, qualified, registered or verified by independent nationally recognized and industry-supported organizations, such as the Standards Council of Canada, shall be preferred.

10.3 Notwithstanding Section 10.1, a Department Head may with the approval of the CAO, specify a specific product or brand name for essential functionality purposes, to avoid unacceptable risk or for some other valid purpose. In such instances, the Department Head shall manage the procurement to achieve a competitive situation if possible. The reason for a specific brand shall be noted in the file with recommendations from a professional (i.e. Licensed Mechanic) if feasible.

10.4 Department Heads shall:

- a) give consideration to the need for value analysis comparisons of options or choices, and
- b) ensure that adequate value analyses comparisons are conducted to provide assurance that the specification will provide best value.

## **11.0 LEGAL SERVICES**

11.1 The Chief Administrative Officer shall be advised whenever legal services are estimated to be in excess of \$5,000 per occurrence.

11.2 The Chief Administrative Officer may approve legal services with an estimated cost less than \$15,000 per occurrence.

11.3 For legal services with an estimated cost in excess of \$15,000, the Chief Administrative Officer shall obtain the approval of Township Council. The Chief Administrative Officer's report to Council shall remain confidential unless otherwise directed by Township Council.

## **12.0 AUDITING SERVICES**

12.1 The Township shall appoint an auditor licensed under the Public Accounting Act, 2004 who is responsible for:

- a) annually auditing the accounts and transactions of the Township and its local boards and expressing an opinion on the financial statements of these bodies based on the audits; and
- b) performing duties required by the municipality or local board.

12.2 An auditor of the Township shall not be appointed for a term exceeding five years.

12.3 Prior to or upon the expiry of the current term of appointment, the Chief Administrative Officer has the authority to seek and obtain a Proposal from the auditing firm for continued service.

12.4 If the Proposal received under section 12.3 is considered reasonable and appropriate by the Chief Administrative Officer, the Chief Administrative Officer shall obtain the approval of Township Council to reappoint the Auditing firm for a term not to exceed five years from the date of the expiry of the current appointment.

12.5 Should the Proposal received under 12.3 not be considered reasonable and appropriate by the Chief Administrative Officer, or if the Chief Administrative Officer does not exercise their authority under section 12.3 above, the provisions of this by-law shall be followed to procure the auditing firm for the Township of Greater Madawaska.

### **13.0 CANCELLATION OF A BID SOLICITATION**

13.1 A Manager may cancel a Bid Solicitation at any time.

13.2 The Manager shall ensure that the confidentiality of any bid submitted is maintained in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, as amended.

### **14.0 GENERAL PROCUREMENT PROCEDURES**

14.1 The following are authorized procedures and project cost limits for the procurement of goods, services or construction:

Procedure	Project Cost
Petty Cash	\$250 or less
Credit Card	\$5,000 or less (excluding CAO)
Purchase Order	\$5,000 to \$15,000
Request for Quotation	\$25,000 or less
Request for Tender	Any value
Request for Proposal	Any value
Request for Standing Offer	Any value

14.2 Request for Quotation and Request for Tender procedures, shall be used where a requirement can be fully defined and best value for the Township can be achieved, by an award selection made on the basis of the Lowest Responsive Bid.

14.3 The Request for Proposal procedure shall be used, where, to achieve best value, the award selection will be made on a formal evaluation. Criteria will be established, involving a combination of mandatory and desirable requirements, where the requirement is best described in a general performance and where innovative solutions are sought.

14.4 Request for Proposals will normally be evaluated and scored according to the following criteria:

- a) understanding of the assignment
- b) capabilities of firm or project team
- c) previous experience on assignments of a similar nature
- d) past performance in the provision of services to the Township
- e) quality of submission
- f) cost savings and/or process improvements for the Township
- g) project schedule
- h) cost
- i) other criteria as may be appropriate for the services being sought

- 14.5 The CAO shall provide specific Terms of Reference for services for contracts of an estimated value greater than \$25,000.
- 14.6 A general scope established by the CAO that describes requirements in less detail than for a Terms of Reference, is sufficient for contracts of an estimated value of \$10,000 or less.

#### **15.0 PURCHASES OF \$250 OR LESS**

- 15.1 The CAO shall have authority to establish a Petty Cash Fund in such an amount to meet the requirements of the Township for the acquisition of goods, services or construction having a value of \$250 or less.
- 15.2 Purchases not exceeding \$250 may be made from Petty Cash in any one instance. Petty Cash should only be used when it is not feasible to use a purchase order.
- 15.3 All purchases shall be made from the competitive marketplace whenever possible and be supported by evidence, voucher or receipt, and shall be processed through the CAO or his/her designate.

#### **16.0 PURCHASES NOT EXCEEDING \$15,000**

- 16.1 Payment for purchases of goods, services or construction not exceeding \$15,000 in value, incurred in the general administration of a department, may be made using:
- a) a properly authorized credit card,
  - b) a properly authorized purchase order, or
  - c) from a supplier's invoice, where the requirements of Sections 16.2 to 16.4 inclusive, have been complied with.
- 16.2 The procedure used to purchase the goods, services or construction shall demonstrate that fair market value was achieved.
- 16.3 The procedure used to make purchases exceeding \$10,000 shall include evidence that the Manager obtained a minimum of two verbal or written quotes.
- 16.4 For purchases not exceeding \$15,000 in value, the Manager may delegate his/her authority to a designate, provided the designate follows the requirements of this By-law.

#### **17.0 PURCHASES GREATER THAN \$15,000 BUT NOT EXCEEDING \$25,000**

- 17.1 Subject to Section 17.2, requirements estimated at \$25,000 or less, should be handled by the Request for Quotation procedure; however, there may be requirements estimated at \$25,000 or less where it will be more appropriate to solicit bids using a Request for Tender, a Request for Proposal or a Request for Standing Offer.
- 17.2 In advance of a solicitation, the CAO shall be responsible for the development of specifications, terms and conditions for the purchase of goods, services or construction.
- 17.3 CAO may award contracts emanating from a Request for Quotation not exceeding \$25,000 provided that:
- a) sufficient funds are available and identified in appropriate accounts within Council approved departmental estimates, including authorized revisions, and
  - b) the award is to the lowest responsive bidder, provided the provisions of this By-law are followed.

17.4 Where the authority referred to in Section 17.3 is exercised, written documentation respecting the award of the contract is to be kept on a procurement file.

17.5 The purchase of goods, services or construction referred to in Section 17.1, shall be made through the issue of a Purchase Order or supplier invoice.

## **18.0 PURCHASES EXCEEDING \$25,000 – REQUEST FOR TENDER**

18.1 A Request for Tender shall be used for purchases exceeding \$25,000, where all of the following criteria apply:

- a) two or more sources are considered capable of supplying the requirement
- b) the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria
- c) the market conditions are such that tenders can be submitted on a common pricing basis
- d) it is intended to accept the tender which offers the municipality the highest value.

18.2 In advance of a solicitation, the CAO or his/her designate, shall develop the relevant specifications, terms and conditions for the acquisition of goods, services and construction.

18.3 The CAO shall recommend the award of contracts to the lowest responsive tenderer.

18.4 The CAO may award contracts up to \$25,000 emanating from a Request for Tender provided that:

- a) the award is to the tenderer offering the most value to the municipality, and
- b) sufficient funds are available and identified in appropriate accounts within Council approved departmental estimates, including authorized revisions.

18.5 Where the authority referred to in Section 18.4 is exercised, written notification respecting the award of the contract is to be kept on a procurement file.

18.6 The CAO shall follow the provisions of Section 28.0, regarding the award of contract, using an agreement or Purchase Order.

18.7 Awards emanating from a Request for Tender that are greater than \$25,000 require the approval of Council.

18.8 The Request for Tender shall indicate the date and time of the tender opening.

## **19.0 PURCHASES EXCEEDING \$25,000 – REQUEST FOR PROPOSAL**

19.1 A Request for Proposal should be used where one or more of the criteria for issuing a Request for Tender cannot be met, such as:

- a) owing to the nature of the requirement, suppliers are invited to propose a solution to a problem, requirement or objective and the selection of the supplier is based on the effectiveness of the proposed solution rather than on price alone, or
- b) it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement.

- 19.2 In advance of a solicitation, the CAO or his/her designate, shall develop terms of reference and evaluation criteria to be applied in assessing the Proposals submitted.
- 19.3 Where the requirement is not straightforward or an excessive workload would be required to evaluate Proposals, either due to their complexity, length, number or any combination thereof, a multi-step procedure may be used that would include a pre-qualification stage, to ensure the workload is at a manageable level.
- 19.4 A Selection Committee shall be established to review all Proposals against pre-established criteria and reach consensus on the final rating results. The final rating results with supporting documents are to be kept on a procurement file.
- 19.5 The CAO may award a contract of \$25,000 or less, emanating from a Request for Proposal provided that:
  - a) sufficient funds are available and identified in appropriate accounts within Council approved departmental estimates, including authorized revisions
  - b) the award is made to the supplier meeting all mandatory requirements and providing best value, as stipulated in the Request for Proposal
  - c) the provisions of this By-law are followed
- 19.6 Where the authority referred to in Section 19.5 is exercised, written notification respecting the award of the contract is to be kept on a procurement file.
- 19.7 Awards emanating from a Request for Proposal that exceed \$25,000 require the approval of Council.
- 19.8 The CAO shall follow the provisions of Section 28.0, regarding the award of contract, using an agreement or Purchase Order.
- 19.9 The Request for Proposal shall indicate the date and time of the tender opening.

**20.0 NON-COMPETITIVE PROCESS (Single/Sole Source Purchases)**

- 20.1 All Non-Competitive purchases of Goods/Services, greater than \$1,000.00 are to be assessed by the Treasurer prior to any negotiations/discussions with a Vendor.
- 20.2 All Non-Competitive purchases of Goods/Services, between \$1,000.01 - \$10,000.00 shall be approved by the Treasurer and Department Head or their designates prior to the purchase of the Goods/Services.
- 20.3 All Non-Competitive purchases of Goods/Services, between \$10,000.01 - \$25,000.00, shall be approved by the Treasurer, Department Head and CAO or their designates prior to the purchase of the Goods/Services.
- 20.4 All Non-Competitive purchases of Goods/Services, over \$25,000.00 shall be approved by Council.
- 20.5 Purchasing, in consultation with Departments, shall obtain a written Bid, from the Bidder/Proponent, for any Non-Competitive purchase of Goods/Services, prior to the purchase of the Goods/Services.
- 20.6 A Non-Competitive Process shall only be used if one or more of the following conditions apply and a process of negotiation is undertaken to obtain the best value in the circumstances for the Township:

- a) the Goods/Services are only available from one source or one supplier by reason of:

Sole Source:

- i. a statutory or market based monopoly;
- ii. scarcity of supply in the market;
- iii. existence of exclusive rights (patents, copyright or license);

Single Source:

- i. need for compatibility with Goods/Services previously acquired and there are no reasonable alternatives, substitutes or accommodations;
- ii. need to avoid violating warranties and guaranties where service/support is required;
- iii. the extension of an existing Contract would prove more cost effective or beneficial;
- iv. due to market conditions, required Goods/Services are in short supply;
- v. the required Goods/Services are to be supplied by a particular Bidder/Proponent having special knowledge, skill, expertise or experience, which cannot be provided by any other person; or
- vi. the nature of the requirement is such that it would not be in the public interest to solicit competitive Bids, as in the case of security or confidential matters.

- b) an attempt to purchase the required Goods/Services has been made in good faith, using a competitive Bid method and has failed to identify a successful Bidder/Proponent;
- c) the required Goods/Services are to be supplied as a result of an emergency, which would not reasonably permit the use of other procurement procedure methods;
- d) where, at the discretion of the Department Head in consultation with the Treasurer, and with the approval of the CAO, it is deemed to be in the best interests of the Township to negotiate with Bidders/Proponents.

20.7 Where a Non-Competitive Procurement Process is undertaken, full disclosure shall be given, on all information relating to the purchase, subject to the provisions of the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

**21.0 EMERGENCY PURCHASES (greater than \$1,000.00)**

21.1 Emergency purchases of Goods/Services may be approved by the Department Head and Treasurer and where applicable, the CAO or their designates when the immediate purchase is essential to prevent serious delays in the work of any department which might involve; danger to life; damage to property; costly downtime; or the provision of an essential service.

21.2 As soon as possible following the Emergency, the Department representative shall document the details of the acquisition. The following shall apply in accordance with the dollar value of the Award:

- a) \$1,000.01 to \$10,000.00 – the Department Head or designate, shall provide a written summary report to the Treasurer, detailing the emergency expenditure.
- b) \$10,000.01 to \$25,000.00 - the Department Head or designate, shall provide a written summary report to the CAO, with a copy to the Treasurer, detailing the emergency expenditure.

- c) over \$25,000.00 - the Department Head and CAO or their designates, shall prepare a Report to Council "for information only" detailing the emergency expenditure.

## **22.0 FOLLOW-ON CONTRACTS**

- 22.1 Where a reasonable likelihood exists that on completion of a contract, it will be necessary to award a non-competitive contract for follow-on goods or services, the Manager shall ensure that the possibility of a follow-on contract will be identified in the original bid solicitation.
- 22.2 Managers may authorize Follow-On goods or services provided total amended value of the contract is within approval authority of the Manager.
- 22.3 The Chief Administrative Officer may authorize Follow-On goods or services provided the total amended value of the contract is within the CAO's approval authority.
- 22.4 Follow-On goods or services amended value must be approved by Council.

## **23.0 CONTRACT AMENDMENTS AND REVISIONS (SCOPE CHANGE)**

- 23.1 No amendment that changes the price of a contract shall be agreed to without a corresponding change in requirement or scope of work.
- 23.2 Amendments to contracts are subject to the identification and availability of sufficient funds in the appropriate accounts within Council approved divisional estimates, including authorized revisions.
- 23.3 Managers may authorize amendments to contracts provided that the total amended value of the contract is within the approval authority of the Manager.
- 23.4 The Chief Administrative Officer's approval is required for amendments to contracts where the total amended value of the procurement reaches the Chief Administrative Officer's approval threshold.
- 23.5 Council's approval is required for amendments to contracts.

## **24.0 CONTRACT RENEWALS**

- 24.1 Where the original contract contains an option to renew or a renewal clause stipulating the provisions of what is acceptable for a renewal, the Manager may authorize the renewal without Council approval by by-law provided that:
  - a) the supplier's performance in supplying the goods, services or construction, is considered to have met the requirements of the contract,
  - b) the Manager agrees that the renewal option is in the best interest of the Township, and,
  - c) funds are available in appropriate accounts within the Council approved estimates, including authorized revisions, to meet the proposed expenditure.

The renewal information shall be sent to Council for information.

- 24.2 Where a contract contains an option for renewal, the authorization from the Manager shall include a written explanation to the Chief Administrative Officer as to why the renewal is in the best interest of the Township, which shall include comment on the market situation and trend.

## **25.0 CONTRACT WITHOUT BUDGETARY APPROPRIATION**

25.1 Where a requirement exists to initiate a project for which goods, services or construction are required and funds are not contained in appropriate accounts within the Council approved departmental estimates to meet the proposed expenditure, the Manager shall, prior to the commencement of the purchasing process, submit a report to Council containing:

- information surrounding the requirement to contract;
- the terms of reference to be provided in the contract, and
- information on the availability of the funds within existing estimates, which were originally approved by Council for other purposes or on the requirement for additional funds.

## **26.0 BID AND CONTRACT ADMINISTRATION SUBMISSION OF BIDS**

26.1 Bids shall only be accepted in paper form, ensuring confidentiality and security, including maintaining the "sealed" nature of bids, as long as necessary where required.

## **27.0 NO ACCEPTABLE BID OR EQUAL BIDS RECEIVED**

27.1 Where bids are received in response to a Bid Solicitation but exceed budget, are not responsive to the requirement or do not represent fair market value, a revised solicitation shall be issued in an effort to obtain an acceptable bid unless Section 27.2 applies.

27.2 The Manager may waive the need for a revised bid solicitation and enter negotiations with the Lowest Responsive Bidder or the highest responsive bidder for a revenue-driven bid selection, emanating from a bid solicitation under the following circumstances:

- a) the total cost of the Lowest Responsive Bid is in excess of the funds appropriated by Council for the project, or
- b) the total revenue of the highest response bidder is less than that appropriated by Council, or
- c) the Manager and the Chief Administrative Officer agree that the changes required to achieve an acceptable bid will not change the general nature of the requirement described in the bid solicitation

27.3 In the case of building construction contracts, where the total cost of the Lowest Responsive Bid is in excess of the appropriation made by Council, negotiations shall be made in accordance with the guidelines established by the most current Canadian Construction Documents Committee.

27.4 If two equal bids are received, the following process shall be employed as a means of breaking the tie: The names of the tied bidders shall be placed in a container and the bid to be recommended to Council for award, shall be drawn by the Chief Administrative Officer or his/her designate, in the presence of the Manager or his/her designate and the Treasurer or his/her designate.

## **28.0 GUARANTEES OF CONTRACT EXECUTION AND PERFORMANCE**

28.1 The Manager may require that a bid be accompanied by a Bid Deposit or other similar security, to guarantee entry into a contract.

28.2 In addition to the security referred to in Section 28.1, the successful supplier may be required to provide a Performance Bond to guarantee the faithful performance of the contract and a Payment Bond to guarantee the payment for labour and materials to be supplied in connection with the contract.



- 28.3 The Manager shall select the appropriate means to guarantee execution and performance of the contract. Means may include one or more of, but are not limited to, financial bonds or other forms of security deposits, provisions for liquidated damages, progress payments, and holdbacks.
- 28.4 At the discretion of the Manager, prior to the commencement of work, evidence of liability insurance coverage may be obtained (by the Manager), ensuring indemnification of the Township of Greater Madawaska from any and all claims, demands, losses, costs or damages resulting from the performance of a supplier's obligations under the contract. When evidence of Liability Insurance Coverage is obtained, it shall satisfy the requirements of the Treasurer.
- 28.5 Prior to payment to a supplier, an Independent Operators Status or Certificate of Clearance from the Workplace Safety and Insurance Board shall be required by the Manager, ensuring all premiums or levies have been paid to the Board to date.
- 28.6 The Manager shall ensure that the guarantee means selected will:
- a) not be excessive but sufficient to cover financial risks to the Township,
  - b) provide flexibility in applying leverage on a supplier so that the penalty is proportional to the deficiencies, and
  - c) comply with Provincial Statutes and Regulations.
- 28.7 Financial security for contract performance shall only be required where the Township will be exposed to costs if the contractor does not complete the requirements of the contract.
- 28.8 The Treasurer may release the holdback funds on construction contracts upon:
- a) the contractor submitting a Statutory Declaration that all accounts have been paid and that all documents have been received for all damage claims;
  - b) receipt of clearance from the Workplace Safety and Insurance Board for any arrears of Workplace Safety and Insurance Board assessment;
  - c) all the requirements of the Construction Liens Act being satisfied;
  - d) where applicable, staff may conduct a title search without the assistance of the Township solicitor to ensure that liens have not been registered, and
  - e) certification from the Manager, under whom the work has been performed, that the conditions of the contract have been satisfied.

## **29.0 IRREGULARITIES CONTAINED IN BIDS**

- 29.1 The process for administering irregularities contained in bids pertaining to all contracts, are set out in Schedule "B".
- 29.2 For an irregularity listed in the first column of Schedule "B", the applicable response is identified in the second column of Schedule "B".

## **30.0 CONTRACTUAL AGREEMENT**

- 30.1 The award of contract may be made by way of a Formal Agreement, supplier invoice or a Purchase Order.
- 30.2 A Purchase Order is to be used when the resulting contract is straightforward and will contain the Township's standard terms and conditions.
- 30.3 A Formal Agreement is to be used when the resulting contract is complex and will contain terms and conditions other than the Township's standard terms and conditions.

- 30.4 It shall be the responsibility of the Manager and/or the Township Solicitor, to determine if it is in the best interest of the Township to establish a Formal Agreement with the supplier.
- 30.5 Where it is determined that Section 30.4 is to apply, the Formal Agreement may be reviewed and approved for execution by the Township's Solicitor.
- 30.6 Where a Formal Agreement is required, as a result of the award of a contract by delegated authority, the Manager shall execute the agreement in the name of the Township of Greater Madawaska.
- 30.7 Where a Formal Agreement is not required, a Purchase Order incorporating the terms and conditions relevant to the award of contract, shall be issued.

### **31.0 EXECUTION AND CUSTODY OF DOCUMENTS**

- 31.1 Managers are authorized to execute Formal Agreements in the name of the Township of Greater Madawaska for which the award was made by delegated authority.
- 31.2 Managers shall have the authority to execute Purchase Orders issued in accordance with these provisions.
- 31.3 Managers shall be responsible for the safeguarding of original purchasing and contract documentation, for the contracting of goods, services or construction, for which the award is made by delegated authority.

### **32.0 TERM OF COUNCIL**

- 32.1 Where a contract may extend beyond the term of the Council, the contract shall contain provisions to minimize the financial liability of the Township, should the subsequent Council not approve sufficient funds to complete the contract and the contract must be terminated by the Township.

### **33.0 COOPERATIVE PURCHASING**

- 33.1 The Township may participate with other government agencies or public authorities in Cooperative Purchasing, where it is in the best interests of the Township to do so.
- 33.2 The procurement policies of the Township or government agencies or public authorities calling the cooperative tender are to be the accepted policies for that particular tender.

### **34.0 SUPPLIER PERFORMANCE**

- 34.1 The Manager shall document evidence and advise the Chief Administrative Officer and Treasurer in writing, where the performance of a supplier has been unsatisfactory in terms of failure to meet contract specifications, terms and conditions or for Health and Safety violations.
- 34.2 The Chief Administrative Officer may, in consultation with the Manager and the Township Solicitor, prohibit an unsatisfactory supplier from bidding on future contracts.

### **35.0 RECEIPT OF GOODS**

- 35.1 The Manager or his/her designate, shall arrange for the prompt inspection of goods on receipt to confirm conformance with the terms of the contract and inform the Treasurer of discrepancies immediately.
- 35.2 The Manager shall coordinate an appropriate course of action with the Treasurer, for any non-performance or discrepancies.

### **36.0 REPORTING TO COUNCIL**

36.1 Each Manager shall submit to Council, a report containing the details relevant to the exercise of delegated authority, for all contracts, including amendments and renewals as required by the delegation of authority bylaw.

### **37.0 ACCESS TO INFORMATION**

37.1 The disclosure of information received relevant to the issue of bid solicitations or the award of contracts emanating from bid solicitations, shall be made by the appropriate officers in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, as amended.

### **38.0 UNSOLICITED BIDS**

38.1 Unsolicited Bids received by the Township shall be reviewed by the Department Head or Treasurer. Any procurement activity resulting from the receipt of an unsolicited Bid shall comply with the provisions of the Non-Competitive Process requirements of this By-law.

### **39.0 EXCEPTIONS/EXEMPTIONS FROM COMPETITIVE PROCESS (under \$25,000.00)**

Unless otherwise noted, Goods/Services (under \$25,000.00) as set out below may be procured without a competitive process, subject to the funds being available in the Operating Budget or the Capital Budget for that purpose:

39.1 Utilities (excluding purchases arranged through 3<sup>rd</sup> party agreements):

- a) Electricity;
- b) Hydro;
- c) Water and Sewer;
- d) Propane;
- e) Oil
- f) Telephones & Long Distance Service (excludes cellular phones & services);
- g) Internet.

39.2 Training and Education:

- a) Membership Fees - Professional Association;
- b) Magazine and Periodical Subscriptions;
- c) Books;
- d) Registration for Conferences, Seminars & Conventions;
- e) Courses;
- f) Staff Training, Development, Workshops & Reports.

39.3 Refundable Employee Expenses;

- a) Advances;
- b) Meal Allowances;
- c) Travel & Hotel Accommodations;
- d) Entertainment;
- e) Miscellaneous – Non Travel;

39.4 Federal/Provincial/Municipal Mandated Programs;

39.5 Advertising:

- a) Newspapers (National and Local);
- b) Radio;
- c) Television;
- d) Periodicals;
- e) Trade Journals;
- f) Magazines;
- g) Internet (Specialty Association Web-Sites, such as AMCTO, OPBA).

- 39.6 Software (Proprietary, Non-Value Added Resellers):
- a) Annual maintenance fees for software already approved under the requirements of this By-law, where the approved vendor is the sole source provider of the maintenance service;
  - b) Software upgrades for software already approved under the requirements of this By-law (including support and training), where the vendor is the sole source provider of the upgrade service;
  - c) Additional software licenses for software already approved under the requirements of this By-law, where the vendor is the sole source of the licensing service.

- 39.7 General Expenses:
- a) Postage, Courier;
  - b) Petty Cash & Replenishment;
  - c) Newspaper Subscriptions;
  - d) Licenses (i.e. Vehicles);
  - e) Transportation (Bus, Train, Airplane);
  - f) Insurance;
  - g) Building Lease Payments;
  - h) Payroll Deduction Remittances;
  - i) Medical
  - j) Grants to Agencies;
  - k) Damage Claims;
  - l) Tax remittances;
  - m) Charges to/from other Government or Crown Corporations
  - n) Employee income.

- 39.8 Certain Professional and Special Services:
- a) Arbitration Services;
  - b) Mediation Services;
  - c) Legal Settlements;
  - d) Witness fees;
  - e) Bailiff or collection agencies
  - f) Additional Non-recurring Accounting and Auditing Services;
  - g) Group benefits;
  - h) Physician Services;
  - i) Counselling Services;
  - j) Committee Fees;
  - k) Temporary Help;
  - l) Banking & Underwriting Services (where covered by Agreements);
  - m) Providers of artistic or specialized services, such as; instructors for dance, yoga, karate; artists; entertainers or entertainment products, etc. (providing the total acquisition cost is less than \$25,000);
  - n) Catering (excluding concessions & vending services).

- 39.9 Public Relations:
- a) Trade Show Registration;
  - b) Trade Show Booth Rentals;
  - c) Event Sponsorship.

#### **40.0 LOCAL PREFERENCE**

40.1 The following two legislative documents prohibit municipalities from adopting a Local Preference By-law:

- a) The Discriminatory Business Practices Act (R.S.O. 1990, Chapter D12), as amended; and
- b) The Canadian Governments implementation of the Agreement of Internal Trade.

40.2 The primary objective of the purchasing process is to acquire Goods/Services at the lowest possible cost, consistent with the demands of suitability, quality, service, and delivery capabilities.

- 40.3 If in the determination of the Treasurer or designate, a competitive market exists, and two or more compliant Bids are received and are identical in price, and provided suitability, quality, service, and delivery are similar, then priority of acceptance may be made first for a local Bid, if any then, for a regional Bid, if any otherwise, the Treasurer or designate, will proceed to procure 'best and final offers' [BAFO] from the Bidders/Proponents involved in order to break the tie.

That By-Law 20-2018 is hereby repealed.

This By-Law shall come into force and take effect on the date of its final passing.

**READ** a first and second time this 18<sup>th</sup> day of March, 2019.

**READ** a third time and passed this 18<sup>th</sup> day of March, 2019.

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Brian Hunt  
Mayor

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Allison Holtzhauer  
CAO Clerk/Treasurer

**SCHEDULE "A"**  
**BY-LAW 14-2019**

**LEVELS OF CONTRACT APPROVAL AUTHORITY**

CAO – Chief Administrative Officer

Credit Card

RFQ/RFT/RFP/RFSO – Request for Quotation/Tender/Proposal/Standing Offer

Purchase Order (PO)

<b>GOODS/MATERIALS/SERVICES/CONSTRUCTION</b>				
<b>Transaction Type</b>	<b>VALUE (K=\$thousands)</b>	<b>Procurement Process</b>	<b>Payment Mechanism</b>	<b>Approval Required</b>
COMPETITIVE (REF 17.0, 18.0, 19.0)	<15K	Standing Offer or 2 Quotes Below 5K written quotes not needed	Credit Card / PO Supplier Invoice	Manager
	15K – 50K	RFQ, RFT or RFP	PO / Agreement Supplier Invoice	Manager
	>25K	RFT, RFP	PO / Agreement	CAO
NON-COMPETITIVE (REF 21.0)	<1K	Solicit Quotation(s)	Credit Card Petty Cash Invoice	Manager
	<25K	Rationalize selection of supplier  Negotiation – demonstrate fair market value (price support)	Credit Card / PO/ Supplier Invoice	CAO

<b>SPECIAL CIRCUMSTANCES</b>				
<b>Transaction Type</b>	<b>VALUE (K=\$thousands)</b>	<b>Procurement Process</b>	<b>Payment Mechanism</b>	<b>Approval Required</b>
(REF 21.0)	<15K	Negotiation – demonstrate fair market value (price support)	PO	Director
	<25K	Negotiation – demonstrate fair market value (price support)	PO	CAO

**SCHEDULE "A" (cont'd)**  
**BY-LAW 14-2019**

<b>AMENDMENTS TO CONTRACTS</b>				
<b>Transaction Type</b>	<b>VALUE (K=\$thousands)</b>	<b>Procurement Process</b>	<b>Payment Mechanism</b>	<b>Approval Required</b>
(REF 23.0)	<15K	Negotiation	Contract Letter/ Agreement	Manager
	<25K	Negotiation – demonstrate fair market value (price support)	Contract Letter/ Agreement	CAO
	>25K	Negotiation – demonstrate fair market value (price support)	Contract Letter/ Agreement	Council

<b>"FOLLOW-ON" CONTRACTS</b>				
<b>Transaction Type</b>	<b>VALUE (K=\$thousands)</b>	<b>Procurement Process</b>	<b>Payment Mechanism</b>	<b>Approval Required</b>
(REF 22.0)	<15K	Where contracts contain such option, service is satisfactory and funds available	Contract Letter/ Agreement	Manager
	<25K	Where contracts contain such option, service is satisfactory and funds available	Contract Letter/ Agreement	CAO
	>25K	Where contracts contain such option, service is satisfactory and funds available	Contract Letter/ Agreement	Council

**SCHEDULE "B"**  
**BY-LAW 14-2019**

**IRREGULARITIES CONTAINED IN BIDS**

#	Irregularity	Response
1.	Late Bids	Automatic Rejection, not read publicly, returned unopened to the bidder.
2.	Unsealed envelopes	Automatic Rejection, not read publicly, returned unopened to the bidder.
3.	Financial Security – Execution a. No bid deposit, cheque not certified or not an original financial security (e.g. a photocopy or a facsimile of a financial security).	Automatic Rejection
	b. Insufficient financial security	Automatic Rejection, unless in the opinion of Director the insufficiency in the financial security is trivial or insignificant.
	c. Signature and/or Corporate Seal of Contractor or of bonding company or both are missing from bid bond.	A Bid bond must be executed (signed) by both the Principal (Contractor) and Surety (Bonding Company) to be valid. If either signature is missing, the response is Automatic Rejection.  If one or both Corporate Seals is missing, the bond is still considered to be valid and no additional action is required.
4.	Bid Document – Execution a. Bids not executed in non-erasable medium and signed in ink.	Automatic Rejection
	b. Bid document missing signature of authorized representative, whether corporate seal affixed or not.	Automatic Rejection
	c. Bid documents in which all Addenda issued have not been acknowledged.	Automatic Rejection, unless in the opinion of the Chief Administrative Officer, the Addenda do not significantly impact the bid, in which case the bidder will be given 48 hours to formally acknowledge the Addenda, with no change permitted to the original financial bid.
5.	Incomplete Bids • Partial bids, all required items not bid	Automatic Rejection
6.	Qualified Bids • bids qualified or restricted by a written statement, whether within the form of tender or included as an attachment	Automatic Rejection
7.	Bids received on documents other than those provided by the Township.	Automatic Rejection, unless in the opinion of the Chief Administrative Officer, the intention of the bidder is clear, and the bid submission details do not deviate in any material manner from those provided by the Township.
8.	Bids Containing Clerical or Mathematical Errors a. Uninitialled changes to the bid document, which are in the opinion of Director trivial in nature.	After official notification from the Director, the bidder has 48 hours to rectify the situation and initial any changes.
	b. Uninitialled changes to the unit prices in the price schedule and the contract totals are consistent with the price as amended.	After official notification from the Director, the bidder has 48 hours to initial the changes.
	c. Extension error, based on quantity provided in bid document and unit rate provided by bidder.	Mathematical error corrected by the Department, using the unit price.



9.	Mistakes in Tendering <ul style="list-style-type: none"> <li>on the application of the bidder and the clear demonstration of an error in the tender or in the bidder's calculation sheets</li> </ul>	Following consultation with the bidder, the Department may allow the bidder to withdraw the bid, in writing, without financial penalty. In some instances the Director may elect to retain the bid deposit.
10.	Other Irregularities	The Chief Administrative Officer and the Director shall have authority to waive irregularities, which are considered to be trivial or insignificant.
11.	Any Irregularity	Despite any provisions herein contained, Township of Greater Madawaska Council may waive any irregularity, where Council, in its' sole opinion, considers it to be in the best interests of the Township.

**SCHEDULE "C"**  
**BY-LAW 14-2019**

**MINIMUM STANDARDS & REQUIREMENTS FOR TENDERS**

The following are minimum procedures and apply to the acquisition of Commodities (except Consultant's services) by Tender.

**1.0 ADVERTISING**

In order to attract as many competitive bidders as possible, Requests for Tenders will be advertised in at least one local newspaper having circulation in all, or a major portion of the Township where the good or service is required, and notice will be placed on the Township's web site. Where the expertise required to fulfill the tender resides outside the Township, the Manager may advertise in the Daily Commercial News or other trade paper appropriate to the circumstances.

Where possible, at least fifteen days' notice shall be given between the date of the advertisement/notice and the closing time of the Tender, in accordance with the Ontario/Quebec Trade Agreement.

**2.0 RELEASE OF TENDER DOCUMENTS**

- a) Tender Document Statement: All Tender documents shall contain the following statement "The lowest or any Tender will not necessarily be accepted and the Township reserves the right to award any portion of this Tender" or words to that effect.
- b) Bond Agreement: Where a performance and/or maintenance bond and/or labour and material payment bond is required, the Tender document must contain an "Agreement to Bond" to be executed by the Bidder and returned with the Bid.
- c) Bid Surety Requirements: Bid deposits are guarantees that a Bidder will enter into a Contract with the Township.

Where deemed necessary by the Manager or where labour (or services) and material are involved, a bid deposit is required in the amount specified in the tender documents.

Bid deposits must be cash, certified cheque, bank draft, money order, irrevocable letter of credit.

Any tender received without the required bid deposit shall be disqualified.

- d) Performance and Maintenance Bonds: Performance bonds guarantee performance of the terms of a Contract. This bond protects the Township from financial loss should the Vendor fail to perform the Contract in accordance with its terms and conditions. Maintenance bonds provide upkeep of a project for a specified period of time after the project is completed. This bond guarantees against defective workmanship or materials.

Where deemed necessary by the Manager or where the Township could experience significant financial loss should a Vendor's failure to perform the Contract within the terms and conditions of the Contract, a performance bond is required.

Where deemed necessary by the Manager or where the Township could experience significant financial loss or other harm as a result of defective workmanship or materials, a maintenance bond is required.

Performance and/or maintenance bonds must be in the amount of one hundred (100%) percent of the total Contract price.

- e) Labour and Material Payment Bonds: Labour and material payment bonds are guarantees that the Vendor will make payment for obligations under the Contract for subcontractors, labourers, and materials suppliers associated with the project.

Where deemed necessary by the Manager or where the Township could experience significant financial loss should a Vendor fail to pay its obligations under the Contract for subcontractors, labourers, and materials suppliers associated with the Contract, a labour and material payment bond shall be required.

Labour and Material Payment Bonds shall be in the amount of fifty (50%) percent of the Total Award Price.

- f) Insurance: Where deemed necessary by the Manager or where the Township could experience significant financial loss, the Tender shall require that an insurance certificate be provided. The insurance coverage must be a minimum of Five Million (\$5,000,000) Dollars for liability, bodily injury and property.

The policy will require that the Township be added as an additional named insured (for the project in question) and that the Township be notified in advance in the event the insurance policy is cancelled or changed in any manner.

- g) Occupational Health and Safety: All Tender document forms and Contracts shall require that the Occupational Health and Safety Act must be complied with.
- h) Workplace Safety and Insurance Board Certificate (WSIB): All Tender document forms and Contracts involving a labour component shall require a WSIB Certificate of Clearance from the Vendor.

### **3.0 RECEIPT AND OPENING OF BID DOCUMENTS**

- a) Timed and Dated: When Tenders are received they shall be time- and date-stamped.
- b) Number of Bids and Bidder Name Not to be Divulged: The number of Bids received and the names of Bidders is confidential, and shall not be divulged prior to the Tender opening.
- c) Tender Envelopes

Bids shall be submitted in sealed opaque envelopes which clearly indicate the following information:

- Contract Number
- Contract/Project Name
- Bid Closing Day, Date & Time
- Bidder's Name, Business Address and Phone Number
- Township of Greater Madawaska
- Department to which the Bid is directed including the address of the location to which Bids are to be submitted

Submissions which do not comply with the foregoing requirements shall be rejected. When this occurs, the Department will make every reasonable attempt to notify the Bidder.

- d) Tenders Received After Closing Time and Date: Tenders received after the closing time shall be noted and returned unopened to the Bidder, as soon as possible. If a late Tender is received without a return address on the envelope it shall be opened, the address obtained, and then returned. The covering letter will advise why the envelope could not be returned unopened.
- e) Alternative Bids: Unsolicited alternative Bids shall not be considered.

- f) Two Bids for Same Contract in Same Envelope: If two bids for the same Contract are received in the same envelope (i.e. Vendor's copy included), the signed copy, or if both are properly executed and prices differ, the lower price copy, shall be considered the intended Bid, which shall be processed in the normal manner.
- g) Two Bids Same Contract - Different Envelopes: If two Bids for the same contract are received in different envelopes the envelope with the latest date and time received shall be considered the intended Bid.
- h) Bids Received By: Bids shall be received by the Department requiring the service or commodity unless otherwise provided for.
- i) Receipt of Bid: Bid envelopes shall be dated, timed and initialed by the person receiving the Bid and placed in a secure location until the Tender opening.
- j) Tender Opening: Tenders shall be opened in public and in the presence of the Opening Committee. The names of those individuals in attendance, the time and date of the opening, the names of the firms submitting a Bid, the completeness of each Bid received, and the total Bid price of each Bid shall be recorded at the opening.

#### **4.0 RETURN OF DEPOSIT CHEQUES**

- a) Return of Bid Deposit Cheques: Immediately following the Tender opening, all Bid deposit cheques (other than those of the two lowest Bidders) shall be returned to the applicable Bidders by courier, registered mail, or pick-up by the Bidder. In the case of a pick-up, the person picking up the Bid deposit shall execute a receipt.

Upon receipt of the executed Contract (and all other required documents, such as bonds etc.) in a format acceptable to the Township, the deposit cheques of the Vendor and the second and third low Bidders shall be returned by courier, registered mail or pick-up by the Bidders.

- b) Deposit Cheque Not to be Cashed Unless: The Bid Deposit cheques that are retained in accordance with 4.0(a) of this Schedule, shall not be cashed unless the deposit is forfeited as set out in Section 5.0 of this Schedule.

#### **5.0 ACTION WHEN SUCCESSFUL BIDDER DOES NOT FINALIZE CONTRACT**

If a Contract has been awarded and the successful Bidder fails to sign the Contract or provide any required documents (i.e. bonds) within the specified time, the Department may grant additional time to fulfill the necessary requirements or may recommend that either:

- (a) the Contract be awarded to the next higher Bidder; or
- (b) the Contract be cancelled.

In either case, the deposit of the originally awarded Bidder is forfeited to the Township.