



FORTFRANCES

BOUNDLESS

PROCUREMENT

ADMINISTRATION & FINANCE 1.12

POLICY

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Superseded:

1. PURPOSE

- (1) To provide a procurement process that will enable the Town to acquire the required quality and quantity of goods, construction, and services for the best value, while adhering to the objectives of this policy.

2. OBJECTIVES

- (1) To ensure fairness, objectivity, accountability, and transparency in the procurement process.
- (2) To encourage competition among suppliers.
- (3) To provide an efficient process where the cost and amount of goods and services procured are proportional to time and money spent, thus obtaining best value in the procurement of deliverables.
- (4) To encourage environmentally responsible and sustainable procurement while maintaining fiscal prudence.
- (5) To act ethically in all procurement activities by complying with the codes of purchasing ethics established by the National Institute of Governmental Purchasing, Inc. and Supply Chain Canada for all Procurement activities and processes.
- (6) To the extent practicable, the Town shall endeavour to promote and incorporate social procurement opportunities and community benefit approached into its procurements, having regard to the requirements of all applicable legislation and trade treaties, and in accordance with any applicable protocols.
- (7) To ensure the Town's procurement of goods, services, and construction is in compliance with all legislative and regulatory requirements, including, but not limited to:
 - (a) The *Municipal Act, 2001*, S.O. 2001, c. 25;
 - (b) The *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50;
 - (c) The *Occupational Health and Safety Act*, R.S.O. 1990, c 0.1;
 - (d) *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56;
 - (e) The *Accessibility for Ontarians with Disabilities Act, 2005*, S.O., c. 11;
 - (f) The *Construction Act*, R.S.O. 1990, c. C.30;

- (g) The Canadian Free Trade Agreement (CFTA);
- (h) The Canada-European Union Comprehensive Economic and Trade Agreement (CETA);
- (i) The Ontario-Quebec Trade and Cooperation Agreement;
- (j) Any successor federal or provincial legislation, regulations, trade agreements or agreements governing municipal procurement in Ontario; and
- (k) All Town bylaws, policies and procedures governing Town expenditures and standards of conduct of Town employees and elected officials.

3. GENERAL PROCUREMENT POLICY

3.1. AUTHORITY

- (1) The Chief Administrative Officer and Division Managers shall be responsible and have authority for all procurement activity and decisions within their departments and may delegate their authority, where appropriate.

3.2. APPLICATION

- (1) This policy applies to all Town employees and Town elected officials.
- (2) The procedures of this policy shall be followed to award a contract or to recommend to Council that a contract be awarded.
- (3) The CAO and Division Managers may purchase or contract for the goods, services listed in Schedule “A” to this policy without following the procedures set out herein provided that sufficient funds are available and identified in appropriate accounts within Council approved budgets.
- (4) The CAO shall contract the Procurement of legal services.
- (5) The following local boards and corporations are bound by this policy and this policy shall apply with necessary modifications, as required by each entity’s applicable governing legislation and regulation(s), to such boards and corporations:
 - (a) Town of Fort Frances Public Library Board
 - (b) The Sister Kennedy Senior’s Centre Board of Management

- (c) Police Services Board

3.3. ACCESSIBILITY LEGISLATION

- (1) Individuals engaged in procurement activities on behalf of the Town are aware of and ensure procurement processes comply with the requirements of the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA).
- (2) The Town incorporates accessibility criteria and features when procuring or acquiring goods, services, or facilities, except where it is not practicable to do so, and in such situation, a documented explanation shall be provided upon request.

3.4. RESTRICTIONS

- (1) No procurement shall be arranged or made to avoid the application of this policy or a trade treaty. Without limiting the generality of the foregoing, no procurement of deliverables shall be divided into two or more parts for the purpose or intent of, or with the effect of, avoiding or frustrating the application of this policy or a trade treaty.
- (2) No contract for services shall be awarded where the services would result in an employee-employer relationship.
- (3) Where an employee (including a spouse, a same sex common law spouse or immediate family member) involved in the award of any contract either on his or her own behalf or while acting for, by, with, or through another person, has any perceived, potential, or actual pecuniary interest, direct or indirect, in the contract, the employee:
 - (a) Shall immediately disclose the interest to the division manager involved in the award of the contract and shall describe the general nature thereof;
 - (b) Shall not take part in the Award of the Contract;
 - (c) Shall not participate in the scoring or qualitative assessment in a bid evaluation; and
 - (d) Shall not attempt in any way to influence the Award of the Contract.
- (4) An employee has an indirect pecuniary interest in a Contract in which the Town of Fort Frances is concerned if the employee or his or her spouse or same sex common law partner or immediate family member:
 - (a) Is a shareholder in or a director or senior officer of a corporation that does not offer its securities to the public that has a pecuniary interest in the contract,

- (b) Has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public that has a pecuniary interest in the contract,
 - (c) Is a member of an incorporated association or partnership that has a pecuniary interest in the contract, or
 - (d) Is in the employment of a person, unincorporated association or partnership that has a pecuniary interest in the contract.
- (5) Without limiting or restricting any other right or privilege of the Town and regardless of whether or not a bid otherwise satisfies the requirement of a bid request, the Town may reject any bid from a vendor where:
- (a) In the opinion of the Town, the commercial relationship between the Town and the vendor has been impaired by the act(s) or omission(s) of such vendor including but not limited to any one or more of the following having occurred within the seven-year period immediately preceding either the date on which the RFP or RFT is awarded or the date on which the vendor has been shortlisted:
 - (i) the vendor being involved in Litigation with the Town;
 - (ii) act(s) or omission(s) resulting in a claim by the Town under any security submitted by the vendor on a RFP or RFT, including but not limited to a bid bond, a performance bond, letter of credit, or warranty bond;
 - (iii) the failure of the vendor to pay, in full, any outstanding payments (and, where applicable, interest and costs) owing to the Town by such vendor, after the Town has made demand for payment of same;
 - (iv) the vendors refusal to follow reasonable directions of the Town or to cure a default under any Contract with the Town as and when required by the Town;
 - (v) the vendor's refusal to enter into a Contract with the Town after the vendor's Bid has been accepted by the Town;
 - (vi) the vendor's unsatisfactory performance as determined by the Town in its absolute discretion, including the vendor's refusal

- to perform or to complete performance of a Contract with the Town;
 - (vii) the vendor having unlawfully or unreasonably threatened, intimidated, harassed, assaulted or committed battery against, or otherwise interfered with an attempt by any other prospective vendor to bid for a Town Contract or to perform any Contract awarded by the Town to that vendor;
 - (viii) the vendor having discussed or communicated, directly or indirectly, with any other vendor or their agent or representative about the preparation of the vendor's Bid including, but not limited to, any connection, comparison of figures or arrangements with, or knowledge of any other vendor making a Bid for the same work except in the instance of a Joint Venture where one is permitted;
 - (ix) the vendor having unlawfully or unreasonably threatened, intimidated, harassed, assaulted or committed battery against, or otherwise interfered with an official, employee, representative, agent or independent consultant or contractor of the Town in the performance of his or her duties or in any way attempted to influence such persons;
- (b) the vendor having any safety infringements;
- (i) The vendor has engaged in illegal conduct or unethical bidding practices in other jurisdictions;
 - (ii) the vendor's reference checks being unsatisfactory, as determined by the Town in its absolute discretion.
- (c) The vendor has on one or more occasions, in the performance of a Contract with the Town, deliberately, with wilful blindness or negligence, save and except an inadvertent error corrected to the satisfaction of the Town within a reasonable time, as determined by the Town:
- (i) over-billed, double-billed and/or retained a known over-payment, or has failed to notify the Town of an over-payment or duplicate payment;
 - (ii) billed for items not supplied;

- (iii) billed for items of one grade, while supplying items of an inferior grade;
 - (iv) made a misrepresentation as to the quality or origin of Goods, their functionality or suitability for a purpose, or their performance characteristics;
 - (v) submitted false or misleading information to the Town;
 - (vi) acted in conflict with the Town’s interests;
 - (vii) misappropriated any property or right of the Town, in any form;
 - (viii) committed any other form of deceptive practice; or
 - (ix) any other act or omission by the vendor that the Town deems to impair the commercial relationship between the Town and the vendor.
- (6) All Council members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M 50 and the Town’s Code of Conduct..
- (7) No procurement shall be made under this policy unless Council has authorized funding for such procurement in the budget or otherwise agreed to the provision of such funds.
- (8) For purchases, other than purchases arising from an RFP, included within the Council endorsed Municipal Budget:
- (a) The CAO shall have signing authority up to \$100,000.00, including the case when less than 3 competitive quotations are received.
 - (b) Except where delegation of authority has been expressly assigned by By-Law, the Mayor and Municipal Clerk shall be required to sign contracts over \$100,000.00 as approved by Council.
 - (c) Procurement Authority Level

Total Procurement Amount (\$)	Delegated Purchasing Authority Level
Up to \$10,000	Staff will be assigned by the Manager and Treasurer

Up to \$50,000	Division Managers
Up to \$100,000	CAO
Over \$100,000	Council approval

(d) Execution of Award

- (i) The person having the applicable Approval Authority for the Procurement as listed above shall also have the authority to execute the Award and the Contract on behalf of the Town.
- (ii) For all other Contracts that require Council approval, the Town officials named in the Council resolution shall execute such Contracts on behalf of the Town. Where officials have not been named in the Council resolution, the Mayor and Municipal Clerk shall execute such contacts by way of enactment of a by-law.
- (iii) All Contracts issued by the Town shall be signed by two Town officials.

(9) Where any tender or contract has been authorized under this policy, the CAO may authorize disbursement of additional funds provided that the additional funds:

- (a) Shall not exceed ten percent (10%) of the original contract price;
- (b) Are available within the program budget; and
- (c) Are required to complete works that are necessary as part of the original contract.

(10) No deliverables may be procured by the Town directly or indirectly for the personal use of any member of Council or any member of a local board or for any officer or employee of the Town.

3.5. NOTIFICATION

(1) Notification of procurement opportunities for goods, services or construction with a total acquisition cost of greater than \$50,000 shall be made by electronic advertising and electronic advertising may be used for any other purchases.

- (2) Notification of procurement opportunities may be supplemented by other means of notification where appropriate.
- (3) Notification must be advertised for a minimum of 15 calendar days, unless a reasonable exception exists and is approved by the CAO.

4. GENERAL PROCUREMENT PROCEDURES

4.1. ESTABLISHMENT OF METHODS

- (1) The Chief Administrative Officer shall establish procedures consistent with the goals and objectives set out in this policy for:
 - (a) The identification of those goods and services or construction which are more effectively acquired through cooperative purchasing;
 - (b) The form, content and use of forms including purchase orders, bonds, letters of credit and other forms of surety, tender, proposal and other contract documents if not specifically addressed in the policy; and
 - (c) Any other aspect of process or procedure not specifically provided for in the policy.

4.2. PURCHASE CARDS

- (1) The Treasurer or Deputy Treasurer is responsible for the purchase card program outlined in the Town of Fort Frances Purchasing Card Policy 1.09. The purchase card procedures shall be applied consistently with this procurement policy.

4.3. REQUEST FOR EXPRESSION OF INTEREST

- (1) A Division Manager or Chief Administrative Officer may conduct a request for expression of interest for the purposes of determining the availability of suppliers of any goods, services or construction and for the purpose of keeping a list of available suppliers, which will be updated from time to time.

4.4. STANDARD PROCUREMENT METHODS

- (1) The Town may procure deliverables through a number of different procurement methods. Depending on the nature and estimated total cost of the deliverables, standard procurement may include:
 - (a) Procuring deliverables through an existing price agreement;

- (b) Obtaining quotes;
- (c) Conducting an invitational competitive procurement process by soliciting bids through the issuance of a call for bids to invited suppliers;
- (d) Conducting an open competitive procurement process by soliciting bids through the public posting of a call for bids; and
- (e) Obtaining pricing through co-operative purchasing with other entities or utilizing sourcing programs such as Ontario Education Collaborative Marketplace (OECM), or Canoe procurement group of Canada (Canoe).

5. PURCHASING METHODS

5.1. PURCHASES NOT EXCEEDING \$500 (PETTY CASH FUNDS)

- (1) The Treasurer shall have the authority to establish petty cash funds in such an amount to meet the requirements of a division for the acquisitions of goods, services or construction having an individual total acquisition cost not exceeding \$500.
- (2) All petty cash fund disbursements shall be evidenced by vouchers and shall be available for auditing purposes through the Treasurer.
- (3) Purchases made pursuant to this section shall be made from the competitive marketplace whenever possible.

5.2. PURCHASES NOT EXCEEDING \$5,000

- (1) Purchases made pursuant to this section for the acquisition of goods, services or construction shall be made from the competitive marketplace whenever possible and may be made using an approved invoice or purchase card.

5.3. PURCHASES EXCEEDING \$5,000 BUT NOT EXCEEDING \$50,000

- (1) Purchases requiring the acquisition of goods, services or construction having a total acquisition cost between \$5,000 and \$50,000 may be made by using a purchase card or approved invoice subject to:
 - (a) At least three written quotes without the necessity of advertising or formal tender procedures prior to ordering;

- (b) In appropriate circumstances, the request for Proposal or Request for Tender process may be utilized for goods, services or construction in this total acquisition cost range; and
- (c) The procedure used to purchase goods, services and construction in this total acquisition cost range shall demonstrate that fair market value was achieved.

5.4. PURCHASES EXCEEDING \$50,000

5.4.1. REQUEST FOR TENDER

- (1) A request for tender shall be used for purchases exceeding \$50,000 where the following criteria apply:
 - (a) Two or more sources are considered capable of supplying the requirement;
 - (b) The requirement is adequately defined to permit evaluation of tenders against clearly defined stated criteria;
 - (c) The market conditions are such that tenders can be submitted on a common pricing basis;
 - (d) It is intended that the lowest compliant bid will be accepted without negotiations, unless an evaluation grid is utilized; and
 - (e) Where an evaluation grid is utilized, the tender is awarded to the bidder with the best score.
- (2) All tenders shall be subject to the procedures in Schedule C.

5.4.2. REQUEST FOR PROPOSAL

- (1) Request for Proposal shall be used where one or more of the criteria for 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 is based on effectiveness of the proposed solution rather than on price alone.
 - (b) It is expected that negotiations with one or more suppliers may be required with respect to any aspect of the requirement.
- (2) Every request for proposal shall have terms of reference and include an evaluation grid.

- (3) Council must approve the award of all Requests for Proposal. The CAO, division manager or designee shall provide a report to council with recommendations containing all pertinent information.

5.5. SOLE SOURCING

- (1) Where only one supplier is able to meet the requirements of procurement, the Town may conduct non-competitive procurement in the circumstances listed below (also known as sole-source situations) provided that they do not do so for the purposes of avoiding competition between suppliers or to discriminate against suppliers:
 - (a) To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licenses, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative;
 - (b) Where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists;
 - (c) For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly;
 - (d) For the purchase of goods on a commodity market;
 - (e) For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor;
 - (f) For work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
 - (g) For a contract to be awarded to the winner of a design contest;
 - (h) For the procurement of a prototype of a first good or service to be developed in the development, but not for any subsequent purchases;
 - (i) For the purchase of goods, under exceptionally advantageous circumstances such as bankruptcy, receivership, or demonstrative equipment, but not for routine purchases;
 - (j) For the procurement of original works of art;

- (k) For the procurement of subscriptions to newspapers, magazines or other periodicals; and
- (l) For the acquisition of any real property or to any lease, right or permission relating to the use or occupation of real property.
- (m) For the procurement of deliverables required under any lease of real property and provided for under the terms of such lease, including tenant improvements, equipment and fixtures.

5.6. CO-OPERATIVE PURCHASING

- (1) The Town may participate with other levels of government, municipalities, agencies or public authorities, and other entities in co-operative purchasing where the Division Manager determines it is in the best interests of the Town to do so.
- (2) Where the Town participates in co-operative purchasing, where the call for bids is issued by another entity, the Town shall adhere to the policies of the entity issuing the co-operative call for bids providing the other public body uses a competitive method consistent with that set out in this policy with respect to the procurement process.
- (3) Where the Town participates in co-operative purchasing by utilizing sourcing programs such as, but not limited to, Ontario Education Collaborative Marketplace (OECM), or Canoe procurement group of Canada (Canoe), the sourcing program is leveraging the collective buying power of many organizations and has already undergone an effective and competitive procurement process.
- (4) Despite the above, the awarding, reporting and execution of contracts resulting from the co-operative purchasing is consistent with that as set out in this policy and supporting procedures.

5.7. EMERGENCY PURCHASES

- (1) In the case of an emergency, the purchase of deliverables may be authorized by the CAO without issuing a call for bids.
- (2) The Division Manager (or delegate) shall endeavour to obtain the best value for any deliverables purchased during an emergency, using as fair and transparent a process as is feasible having regard to the particular emergency notwithstanding any other provision of this policy.
- (3) The Division Manager may authorize the purchase provided that the total cost does not exceed one hundred thousand dollars (\$100,000.00).

- (4) The Chief Administrative Officer may authorize the purchase where the total cost exceeds one hundred thousand dollars (\$100,000.00).
- (5) Emergency purchases shall not be used to circumvent the need to procure deliverables through a standard procurement process in accordance with this policy.
- (6) For all emergencies over \$50,000, the Division manager shall submit a report to Council to advise of any purchases made under delegated authority for emergency purchases.

6. BID ISSUES

6.1. BIDS IN EXCESS OF PROJECT ESTIMATES

- (1) Where bids are received in response to a bid solicitation but exceed project estimates, the manager in charge of the bid solicitation may enter into negotiations with the lowest compliant bidder, where it is agreed that the changes required to achieve an acceptable Bid will not change the general nature of the requirement described in the request.
- (2) Where bids received that are in excess of the project estimates, where the project estimates are determined to be too low, and the value of the bid is at fair market value, a report will be presented to Council with a recommendation for a decision.

6.2. BID IRREGULARITIES

- (1) Unless otherwise determined by the Town in its sole and unfettered discretion the administration of certain bid solicitation issues/irregularities and non-compliance are as set out in Schedule B.

6.3. IDENTICAL PRICING

- (1) If the lowest compliant price from two or more vendors are identical in Total Acquisition Cost or unit price, the manager is authorized to enter negotiations with the vendors who have submitted the identical prices in an attempt to obtain the lesser price and shall maintain a record with respect to such negotiations.
- (2) When negotiations are not successful in breaking the identical pricing, then factors to be considered in breaking the tie include:
 - (a) When delivery or completion date are important factors, preference to the vendor offering the best delivery or completion date;
 - (b) Preference to a vendor in a position to provide better after sales services; or

- (c) Preference to a vendor with an overall satisfactory performance record.
- (3) When the considerations above do not break the tie, the successful bidder shall be determined by a coin toss. The coin toss may be performed in the presence of the bidders if they wish to attend, and the Town.

7. PURCHASE WITHOUT BUDGET APPROPRIATION

- (1) Where a requirement exists to initiate a project for which goods, services or construction are required and funds are not contained in the Council approved budget, the Division Manager shall, prior to commencement of the purchase process submit a report to Council, for approval, containing:
 - (a) Information surrounding the requirement.
 - (b) Information on the availability of funds within existing estimates, which were originally approved by Council for the other purposes or on the requirement for additional funds.

8. CONTRACTUAL AGREEMENTS

- (1) The award of a contract over \$50,000 shall be by way of an agreement. The Division Manager and / or Chief Administrative Officer will have the authority to negotiate contracts on behalf of the Town.
- (2) A formal agreement is to be used when the resulting contract is complex and will contain terms and conditions other than the Town of Fort Frances standard contractual terms and conditions.
- (3) Changes to a contract, and more specifically add-ons, shall not exceed the project tender limitations for contingencies as defined in the contract, or in the absence of such limitations the variance must not exceed the approved tender amount by more than 10%. The appropriate Executive Committee and Council must approve any changes in excess of those prescribed above prior to proceeding.
- (4) The completed contracts are to be returned to the Municipal Clerk for execution by the Town.

8.1. GUARANTEE OF CONTRACT EXECUTION AND PERFORMANCE

- (1) The Town shall require that a deposit by way of a certified cheque, bid bond or other similar security to guarantee entry into a contract accompany a bid. Unless otherwise specified in circumstances where a bid bond or other security is required the refundable deposit required shall be:

- (a) 5% for projects where Total Acquisition Cost is \$50,000 to \$100,000.
 - (b) 10% for project where Total Acquisition Cost is in excess of \$100,000.
- (2) Prior to commencement of work the successful bidder may be required to provide the following security in addition to the security referred to in section 1:
 - (a) A performance bond to guarantee the performance of the contract; and
 - (b) A payment bond to guarantee the payment of labour and materials to be supplied in connection with a contract.
- (3) The Manager shall select the appropriate means of guarantee for execution and performance of the contract. Means may include but not be limited to certified cheque, bank draft, irrevocable letter of credit, money order, and, where appropriate a bid bond issued by an approved guarantee company properly licensed in the province of Ontario, on bond forms acceptable to the Town of Fort Frances.
- (4) The Municipal Clerk shall retain the certified cheque, bank draft, bid bond or surety until a decision is made by Council to award or not to award. At that time, the Municipal Clerk shall forward the cash security, bid bond or surety, as the case may be, of the successful Tenderer to the Treasurer for safekeeping or deposit. The Municipal Clerk shall forward such securities of all unsuccessful Tenderers to the Division Manager of authority to accompany advisement of tender results. The original insurance certificate and WSIB clearance certificate, etc. of the successful Tenderer are to be retained on file by the Municipal Clerk.
- (5) Deposits of unsuccessful Tenderers will be returned no later than three weeks following the Tender award. Except as otherwise provided for herein, the Deposit of the successful Tender will be returned with the first progress certificate.
- (6) Prior to the commencement of work, evidence of insurance coverage satisfactory to the Town must be provided by the successful bidder ensuring indemnification of the Town of Fort Frances from any and all claims, demands, losses, costs, or damages resulting from the performance of bidders obligations under the contract and from any other risk determined by the Town requiring coverage. This certificate of insurance of the successful Tenderer are to be retained on file by the Municipal Clerk.

9. SURPLUS AND OBSOLETE GOODS

- (1) The Chief Administrative Officer shall dispose of all goods and services for which a Division no longer has use and the CAO may use any method for disposal in the Town of Fort Frances best interest, including without limitation, public auction, public tender, trade or transfer to another division.

- (2) An employee, who has the responsibility or decision-making authority of declaring goods surplus or obsolete or for sending items to a public auction shall not directly or indirectly bid on or personally obtain any goods that the employee has declared as surplus. This prohibition extends to the given employee's immediate family members, a spouse or a same sex common law partner.
- (3) No member of Council or any Town employee shall be permitted to acquire surplus or obsolete goods except by purchase at public auction, by public tender, trade or negotiated sale.

10. POLICY REVIEW

- (1) This policy shall be reviewed within each term of Council.
- (2) The review shall determine the policy's effectiveness versus the objectives stated and the requirement of the Municipal Act, 2001 as amended.
- (3) The senior management team shall undertake the review and the final result of said review are to be reported by the CAO to Council.

11. REQUIREMENT FOR COUNCIL APPROVAL

- (1) Council approval is required in each of the following circumstances:
 - (a) prior to authorizing a procurement where the procurement is prescribed by statute to be made by Council,
 - (b) prior to authorizing a procurement where the procurement of any deliverable is not authorized by this policy,
 - (c) prior to authorizing a procurement where the term of a proposed term contract is for a period greater than five (5) years, or where the extension or renewal of a contract would result in an aggregate term of greater than five (5) years,
 - (d) prior to renewing a term contract where the contract does not provide for a renewal option or all renewal options have been exercised,
 - (e) prior to authorizing a procurement where the total cost of a non-standard procurement exceeds one hundred thousand dollars (\$100,000.00), or
 - (f) where otherwise specifically required by this policy.

12. DEFINITIONS

- **“Approval Authority”** means the authority delegated by the Town to a person to approve procurements including the award and contract up to the authority levels.
- **“Approved invoice”** means an original supplier’s invoice issued at the time of purchase of goods and services that bears both the signature of an appropriately authorized employee and required account distribution codes.
- **“Authorized Delegate”** means the individual holding a position which has been delegated by Council an approval authority and includes any other individuals further delegated by Division Managers.
- **“Award”** means authorization to proceed with the purchase of goods, services or construction from a chosen supplier.
- **“Bid”** means a submission received in response to a call for bids, and includes a quotation, a tender and a proposal.
- **“Bid bond”** 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 town of Fort Frances as required.
- **“Bidder”** means any legal entity that submits a bid in response to a call for bids.
- **“Bid solicitation”** means a formal request for bids and includes, but is not necessarily limited to, a request for quotations, a request for tenders and a request for proposals.
- **“Chief Administrative Officer”** means the Chief Administrative Officer (CAO) of The Town of Fort Frances.
- **“Clerk”** means the duly appointed Municipal Clerk of the Town of Fort Frances.
- **“Community benefit”** means additional physical, social, economic and/or environmental benefits for local communities that can be leveraged through funds already being spent on goods, services, construction and land development projects.
- **“Conflict of interest”** means:
 - when applied to individuals, any situation or circumstance in which an individual’s impartiality may be affected because of a personal relationship or where an individual may stand to gain from the outcome of a procurement; and

- when applied to suppliers, any situation or circumstance where:
 - in the context of a procurement process, the supplier has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including, but not limited to:
 - having, or having access to, confidential information of the Town that is not available to other suppliers,
 - communicating with any person with a view to influencing preferred treatment in the procurement process, or
 - engaging in conduct that compromises, or could be seen to compromise, the integrity of an open and competitive procurement process or render that process non-competitive or unfair, or
 - in the context of performance under a contract, the supplier's other commitments, relationships or financial interests:
 - could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement, or
 - could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.
- **“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 of the procurement.

- **“Contingency”** means an event or circumstance that gives rise to an increase in a contract price, and which could not have been reasonably anticipated at the time the call for bids closed.
- **“Contract”** means any form of binding agreement between the Town of Fort Frances and a contractor for the purchase of deliverables and includes a purchase order.
- **“Contractor”** means any legal entity to whom a contract is awarded.
- **“Cooperative Purchasing”** means a variety of arrangements whereby two or more public procurement entities combine their requirements in a single procurement process to obtain advantages of volume purchases from the same supplier(s) or contractor(s).
- **“Council”** means the duly elected Council of the Town of Fort Frances.
- **“Council approved Budget”** means the approved department budgets including authorized revisions, or where applicable, Council approved budgets of local boards to which this policy applies.
- **“Division”** means an organizational unit of the Town of Fort Frances headed by a manager.
- **“Division Manager”** means the person appointed by Council to be responsible for the operation of a division and/or designate and includes the persons appointed to the position by the CAO.
- **“Electronic Advertising”** means the use of a computer-based system directly accessible by suppliers irrespective of location that provides suppliers with information related to bid solicitation.
- **“Emergency”** means an event or circumstance where the immediate purchase of deliverables is necessary to prevent or alleviate:
 - serious delay in service delivery that could not have been foreseen,
 - a threat to the environment, life, safety, health and/or welfare of any person,
 - the disruption of essential services, or
 - damage to public or private property, and includes, but is not limited to, an emergency declared at the local, Regional, Provincial or National level under the *Emergency Management and Civil Protection Act* or applicable federal legislation.

- **“Essential service”** means any service rendered to or by the Town, the interruption of which could endanger the life, health or personal safety of any person.
- **“Fair Market Value”** means the price that would be agreed to in an open, unrestricted market between knowledgeable and willing parties dealing at arms-length, who are fully informed and not under any duress to transact.
- **“Goods”** means moveable property including:
 - The cost of installing, operating, maintaining or manufacturing such moveable property; and
 - Raw materials, products, equipment and other physical objects of every kind and description.
- **“Immediate Family Member”** means husband, wife, common-law spouse, father, mother, step-father, step-mother, sister, brother, son, daughter, step-children, or common-law children.
- **“Lowest Compliant Bid”** means the bid that would provide the Town of Fort Frances with the desired goods, services, or construction at the lowest total acquisition cost, meet all the specifications and contain no irregularities requiring automatic rejection.
- **“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 environment, planning, information technology or other disciplines.
- **“Proposal”** means an offer submitted in response to a request for proposal acceptance of which may be subject to further negotiation.
- **“Purchase Card”** means a card issued in accordance with the purchasing card policy, to purchase goods and services.
- **“Purchase order”** means a legal document generated by the Town of Fort Frances, setting out the terms and conditions for the purchase of deliverables, and includes the upset limit of the purchase.
- **“Real property”** means land, or land and buildings, and includes fixtures attached to such land or buildings.

- **“Request for Proposal”** means a document used to request suppliers to supply solutions for the delivery of more complex products or services or to provide alternative options or solutions. It is a process that uses predefined evaluation criteria in which price is not the only factor.
- **“Services”** means all professional and consulting services, all services in relation to real property or personal property including, but not limited to: the delivery, installation, construction, maintenance, repair, restoration, demolition or removal of and except only services to be delivered by an officer or employee of the Town of Fort Frances in accordance with terms of employment.
- **“Single Source”** means the use of a non-competitive method of procurement of goods or services from a supplier even though there may be more than one supplier capable of delivering the same goods or services.
- **“Scope change”** means any change to a contract to accommodate a need identified by the Town of Fort Frances which was not originally provided for in the contract and which may include the purchase of additional deliverables or the extension of the term of the contract and which may require an adjustment to the contract price.
- **“Social procurement”** means using procurement processes to generate positive social outcomes which may include job creation, training, or apprenticeships for a historically disadvantaged community, or reducing carbon emissions, in addition to the efficient delivery of goods and services, and may include other benefits as defined by the local community or the Town.
- **“Sole Source”** means the use of a non-competitive procurement process to acquire goods or services where there is only one available or known supplier for the sources of the goods or service.
- **“Supplier”** means a person carrying on the business of providing deliverables and includes a vendor, service provider, consultant, and contractor.
- **“Supplier Suspension Protocol”** means the protocol setting out the process for suspending suppliers from participation in the Town of Fort Frances’ procurement processes.
- **“Tender”** means a document used to request supplier responses to supply goods or services based on stated delivery requirements, performance specifications, terms and conditions. A tender usually focuses the evaluation criteria predominately on price and delivery requirements.

- **“Term contract”** means a contract which states a fixed duration during which the contract will be in effect.
- **“Terms of Reference”** means the document which explains the objectives, scope of work, activities, task to be performed, respective responsibilities of the procuring entity and the bidder, and expected results and deliverables of the assignment.
- **“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 taxes, warranties, local service costs, life cycle costs, time of completion or delivery, and inventory carrying costs.
- **“Town” or “Town of Fort Frances”** means the Corporation of the Town of Fort Frances.
- **“Treasurer”** means the duly appointed Treasurer of the Town of Fort Frances.
- **“Vendor”** means a person or company offering something for sale.

SCHEDULE A - EXEMPTIONS

- (1) The purchasing methods described in this policy do not apply to the following goods and services, although in some cases the Town may wish to follow the policy to procure these services:
- (a) Training and Education
 - (i) Registration and tuition fees for conferences, conventions, courses and seminars
 - (ii) Magazines, books and periodicals
 - (iii) Memberships
 - (b) Refundable Employee/Council Expenses
 - (i) Advances
 - (ii) Meal Allowances
 - (iii) Travel and Entertainment
 - (iv) Per Diem Payments
 - (v) Miscellaneous – non travel
 - (c) Employer’s General Expenses
 - (i) Payroll Deduction Remittances
 - (ii) Employee benefits
 - (iii) Licenses (vehicle, firearm, professional, etc.)
 - (iv) Debenture Payment
 - (v) Grants to Agencies
 - (vi) Damage Claims
 - (vii) Tax Remittances
 - (d) Professional and Special Services
 - (i) Auditing fees
 - (ii) Committee Fees
 - (iii) Insurance Costs
 - (iv) Legal fees and other professional services related to litigation or legal matters
 - (v) Veterinary Expenses
 - (vi) Road construction design services
 - (vii) Telecommunications
 - (viii) Utilities
 - (ix) Hardware and software licensing and support services
 - (x) Advertising services
 - (e) Bailiff or collection agencies
 - (f) purchases from other government bodies.

SCHEDULE B - BID IRREGULARITIES

Item	Description	Action
1	Late submission	Automatic rejection, not opened or read publicly
2	Insufficient financial security (no bid security or agreement to bond or insufficient bid bond or agreement to bond)	Automatic rejection
3	Bid forms not signed or signed in an erasable medium	Automatic rejection
4	All Addendum(s) not acknowledged (if issued)	48 hours to correct and initial changes
5	All required sections of bid documents not completed	Automatic rejection unless the incomplete nature is trivial or insignificant at the Town's discretion.
6	Bids received on documents other than those provided by the Town	Automatic rejection
7	Bids containing minor obvious clerical errors	48 hours to correct and initial changes
8	Erasures, overwriting or strikeouts which are not initialled	48 hours to correct and initial changes
9	Mathematical errors which are not consistent with unit price	48 hours to correct and initial changes
10	If applicable- Unsealed envelopes	Automatic rejection

PROCUREMENT

11	If applicable- Failure to attend a mandatory site visit	Automatic rejection
12	Any other irregularities	The Division Manager in charge of bid solicitation shall have the authority to waive any other irregularities, grant 48 hours to initial changes, or automatically reject the bid

SCHEDULE C - TENDER PROCEDURES

- (1) Obtain sealed tenders by placing an electronic advertisement for the procurement of goods and services on the Town of Fort Frances website. Electronic advertising for procurement with a total acquisition cost greater than \$100,000 and construction with total acquisition costs greater than \$250,000 is required to be posted on a public procurement site designated for the Province of Ontario.
- (2) Other forms of advertising may be used, such as newspaper, online and radio.
- (3) In addition, copies of the tender call may be sent to:
 - (a) Construction Association of Thunder Bay, 857 North May Street, Thunder Bay, Ontario P7C 3S2 Fax: 807-623-2296
 - (b) Winnipeg Construction Association, 290 Burnell Street, Winnipeg, Manitoba R3G 2A7 Fax: 204-783-7805
 - (c) Fort Frances Times Fax: 807-274-7286
- (4) It is the responsibility of the Division Manager to ensure that proper tender documents, plans and specifications are prepared and available to prospective Tenderers the day of the advertisement.
- (5) Where appropriate (construction projects), the Division Managers are to consult with the Operations and Facilities Division Manager to determine the role and responsibilities of Engineering and/or other operations departments as it relates to the completion of the project. If capability or time commitments do not permit, it is the responsibility of the division in need to seek alternative methods of completing the project specifications.
- (6) Employee input is valuable to the determination of plans and specifications for items/projects/services etc. to ensure that the Town's needs are met. In situations where employees are users of the item/project/service/etc. Managers shall obtain (and record) employee input into the preparation of tender specifications.
- (7) In order to recover costs of producing detailed tender documents and drawings, where appropriate, at the discretion of the Division Manager, a fee may be charged for tender documents not to exceed \$50.00.
- (8) The Tenderer shall keep its tender open for acceptance for a period of 60 calendar days or in some cases longer than 60 days from the closing time.

- (9) A tendering number obtained from the office of the Municipal Clerk shall identify all tender calls.
- (10) All tender forms are to be submitted in duplicate prior to closing time and date to the Office of the CAO.
- (11) Tenders shall close at 2:00 p.m. on a Tuesday that is not a public holiday unless otherwise specifically authorized by the CAO and instructions to bidders shall note that tenders will be publicly opened at the Fort Frances Civic Centre, 320 Portage Avenue, Fort Frances, Ontario after the specified closing time and date.
- (12) Tenders will be opened in the presence of the Municipal Clerk or designee and the applicable Division Manager or designee.
- (13) Tender openings may be open to the public.
- (14) Unless the Town determines otherwise a tenderer will be responsible to complete an Occupational Health and Safety agreement form and submit a valid WSIB clearance certificate.
- (15) The successful Tenderer(s) shall take out and keep in force, throughout and for the duration of such Tenderer's obligations to and/or contract with the Town such insurance policies and evidence of insurance coverage as determined by the Town. A certified copy of the Policy or certificate thereof shall be deposited with the Town upon signing of the Form of Agreement or as the Town may direct. Such Policy shall name the Town as an additional insured thereunder and some suggested wording which may be included in the insurance policies is as follows:
 - (a) The insurer's waiver of any rights of subrogation or indemnity or any other claim to which the insurer might otherwise be entitled as against the Town and any other corporation owned, operated, or controlled by or affiliated with the Town, together with a severability of interest clause and a cross liability clause; and
 - (b) An undertaking by the insurer not to cancel, change, lapse or refuse to renew the insurance therein granted without first giving the parties notice of its intentions in writing of at least 60 days prior to the intended change, lapse, cancellation or termination.
- (16) Tenders are to be opened and read out by the Municipal Clerk or designee. A formalized checklist is to be completed at time of opening.

- (17) Following the opening of tenders and after the completion of the formalized checklist by the Municipal Clerk or designee, copies of each tender received shall be referred to the appropriate Division Manager for tabulation, confirmation of price extensions, analysis of quantities, and qualities, and conformity to plans and/or specifications. Conveyance envelopes will only be discarded following the completion of the project.
- (18) A tender recommendation report will be prepared for Council's approval regarding the tenders.
- (19) All Tender and Proposal documents will outline a term respecting the making of application and obtaining of a Town Business License if the company was successfully awarded the Tender/Proposal.
- (20) This clause may be considered as part of the Tender/Proposal documents. The division manager or designee will determine its utilization. In the event of any dispute arising in connection with this Tender/Proposal or Tender/Proposal process, including, without limitation, a dispute as to whether the bid of any Tenderer was submitted on time, the Town, in its unqualified subjective discretion, may refer the dispute to a confidential arbitration before a single arbitrator at Fort Frances, Ontario, pursuant to the Arbitration Act, 1991, as amended. If the Town refers the dispute to arbitration, the Tenderer agrees that it is bound to arbitrate such dispute with the Town. Unless the Town shall refer such dispute to arbitration, there shall be no arbitration of such dispute.
- (21) If the Town refers the dispute to arbitration, the Town and the Tenderer agree that they shall exchange brief statements of their respective positions on the dispute, together with the relevant documents, and submit to an arbitration hearing which shall last no longer than 2 days, subject to the discretion of the arbitrator to increase such time. The Town and the Tenderer further agree that there shall be no appeal from the arbitrator's award.