

Policy:	<b>Chapter 17</b>
Coverage:	<b>Elected/Appointed Officials</b>
Council Approval:	<u>2013 / 03 / 12</u> Y M D
Effective Date:	<u>2013/ 02 / 12</u> Y M D
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## **Purchasing and Tendering Policy**

### **Purpose and Objectives**

The Town of Trenton Purchasing and Tendering Policy has been developed to establish purchasing guidelines that provide for the procurement of goods, services, construction and facilities by the Town of Trenton in a fair, open, consistent and transparent manner resulting in best value as approved by Council.

The Town of Trenton is committed to

- Providing for the procurement of goods, services, construction and facilities in a fair, open, consistent, and transparent manner resulting in best value
- Encouraging competition, innovative ideas and solutions, while respecting all Legislative and Trade Agreement obligations
- Promoting sustainable procurement in procurement decisions, including identifying and exploring opportunities to work with and support social enterprises and businesses that are owned by and who employ under-represented populations
- Ensuring that qualified suppliers have equal opportunity to bid on the Town of Trenton's procurement activity
- Being accountable for procurement decisions.

### ***1. This Policy is entitled the "Purchasing and Tendering Policy"***

## **PART 1 - INTRODUCTORY**

### **Definitions**

#### ***2. in this Policy***

(1) "alternative procurement practice" means the purchase of goods or services without a public tender or other competitive process, in the circumstances described at section 18 of this Policy;

(2) "best value" means evaluating bids not only on purchase price and life cycle cost considerations, but also taking into account items such as environmental and social

considerations, delivery, servicing and the capacity of the supplier to meet other criteria as stated in tender documents;

(3) "environmental considerations" means factors associated with the purchase, manufacture, operation or disposal of a product or asset that affect the environment, such as the degree to which the product or asset uses recycled materials, is energy efficient, or produces or reduces greenhouse gas emissions;

(4) "Life cycle cost" means the total costs associated with a product or asset over its life span, including the cost of maintenance, repair, operation and disposal;

(5) "Local business" means businesses whose main office or operations are physically located within the boundaries of the Town of Trenton and include the towns of New Glasgow, Stellarton, Pictou, Westville and the County of Pictou;

(6) "Public tender" means publicly advertising the Town of Trenton's intended procurement of certain goods or services and inviting responses from interested suppliers. Public tenders include traditional tenders, requests for proposals, and two phase bids, and are described at section 14 of this Policy;

(7) "Request for proposals" means a formal invitation to suppliers to describe how their services, methods, equipment or products can address and/or meet the needs of the Town of Trenton. Requests for proposals are described at section 16 of this Policy;

(8) "Request for quotations" means informally obtaining price quotations from a number of different suppliers. Requests for quotations are described at section 13 of this Policy;

(9) "social considerations" means factors associated with the purchase or manufacture of a product or asset that relate to the rights or interests of the workers involved, such as working conditions, fair wages, and compliance with human rights legislation and conventions;

(10) "Standing offer" means a source of supply available to the Town of Trenton either through a standing price agreement with a supplier or as a member of a larger group of purchasers. Standing offers are described at section 12 of this Policy;

(11) "Traditional tender" means a formal invitation to suppliers to submit a bid to supply specified goods or services. Traditional tenders are described at section 15 of this Policy;

(12) "Two phase bid" means a two stage process in which suppliers submit proposals for evaluation, and separately submit prices. Two phase bids are described at section 17 of this Policy.

**Application of this Policy**

***3. This Policy applies to the procurement by the Town of Trenton of all goods and services, including construction and facilities, by purchase or lease, but does not apply to procurements:***

(1) by the Town of Trenton from organizations owned or controlled by the Town of Trenton.

(2) where a construction project is managed by a third party on behalf of the Town of Trenton, in which case the procurement for the project must be in accordance with the contract between the Town of Trenton and the third party, and in accordance with generally accepted procurement practices.

### **Procurement Policy principles**

#### ***4. All procurement carried out by the Town of Trenton must be carried out with a view to:***

- (1) ensuring an equitable, open and transparent process for the acquisition of goods and services by the Town of Trenton;
- (2) avoiding dishonesty, corruption or favouritism in the procurement of goods and services;
- (3) encouraging competitive bidding wherever possible and, in any event, minimizing the Town of Trenton's cost of acquiring goods and services while obtaining best value;
- (4) utilizing suppliers who can be expected to provide satisfactory performance;
- (5) taking into account environmental considerations in all procurement decisions and selecting environmentally beneficial goods and services where practical;
- (6) complying with applicable regional, national, and international trade agreements, including the Agreement on Internal Trade and the Atlantic Procurement Agreement;
- (7) complying with the Public Procurement Act, S.N.S. 2011, c. 12 and Regulations made pursuant to the Public Procurement Act.

#### ***5. Pursuant to s. 15(1) of the Public Procurement Act, all employees involved in procurement on behalf of the Town of Trenton must:***

- (1) ensure their procurement activities are conducted according to this Policy, provincial and federal legislation, trade agreements and ethical business practices;
- (2) encourage and support collaborative procurement amongst other municipalities and public sector entities such as hospitals and school boards;
- (3) follow leading procurement practices;
- (4) in good faith, conduct business with current and prospective suppliers and be fair in all business dealings;
- (5) strive to obtain the best value for each expenditure;
- (6) require suppliers provide accurate representations of goods, services and construction
- (7) encourage suppliers to consider integrating environmental, economic and social considerations in their product or service offerings;

(8) encourage the negotiation of an equitable and mutually acceptable settlement when a dispute arises;

(9) request removal from a procurement process when a personal conflict of interest is perceived.

## **PART II – NORMAL PROCUREMENT PRACTICES**

**6. In addition to adhering to the principles in sections 4 and 5, normal purchasing practices must be as described below in sections 7 to 10.**

### **7. For goods and services having a value of less than \$2,500 including HST:**

(1) The procurement decision must be made by the applicable department head or Chief Administrative Officer (CAO).

(2) Goods and services must be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value.

(3) If the goods or services cannot be procured under subsection (2), they may be purchased from any supplier, unless municipal staff has reason to believe that:

(a) purchasing the goods or services from that supplier would not provide best value; or

(b) acquiring the goods and services from that supplier would otherwise not conform with the procurement principles in section 4.

### **8. For goods and services having a value between \$2,501 and \$10,000 including HST:**

(1) The procurement decision must be made by the CAO or by an employee designated by this person.

(2) Goods and services must be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value.

(3) If the goods or services cannot be procured under subsection (2), the goods or services must be procured by a request for quotations.

### **9. For goods and services having a value between \$10,001 and \$25,000 including HST:**

(1) The procurement decision must be made by the CAO

(2) Goods and services must be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value.

(3) If the goods or services cannot be procured under subsection (2), the CAO must decide whether the goods or services must be procured by a request for quotations or by public tender.

(4) If the goods or services are procured by a request for quotations, in addition to any other requirements for the request for quotations process, the following requirements must be met:

(a) all quotations must be obtained in writing;

(b) the request for quotations must be placed on the Town of Trenton's web page.

**10. For goods and services having a value of more than \$25,001 including HST:**

(1) The procurement decision must be made by Council, unless Council has expressly authorized the CAO to make the decision;

(2) Goods and services must be procured by public tender, which may be preceded by a request for qualifications or request for expressions of interest.

**11. Council may approve exceptions to the normal purchasing practices outlined in sections 7 to 10 of this Policy:**

(1) when a more competitive process normally used for goods and services of higher value, is used; or

(2) when, in accordance with the criteria described in the "alternative procurement practices" provisions at section 18 of this Policy, it is necessary or appropriate that the goods or services be purchased in accordance with that section.

**PART III – GUIDELINES FOR PROCUREMENT PROCEDURES**

**12. Standing Offers:**

(1) A standing offer is a source of supply available to the Town of Trenton either through a standing price agreement with a supplier or as a member of a larger group of purchasers, and includes:

(a) a standing agreement between the Town of Trenton and a supplier in which the supplier commits to providing specified goods or services at a specific price for a specific period of time. Such standing agreements should themselves be the subject of a competitive tender process;

(b) equipment leasing programs through the Government of Nova Scotia;

(c) Nova Scotia Provincial "standing offers" administered by the Nova Scotia Government;

(d) supplies and services available from the Nova Scotia Government;

(e) a procurement program administered by the Union of Nova Scotia Municipalities or the Association of Municipal Administrators;

(f) any other program available to several municipal units and other public sector entities such as hospitals and school boards, provided that municipal staff is satisfied that such program has been developed and conforms with the principles set out in section 4.

### **13. Request for Quotations:**

(1) A request for quotations process involves informally obtaining price quotations from a number of different suppliers.

(2) Requests for quotations are generally used when the cost of the goods or services does not warrant the time, effort and expense required for a formal public tender process.

(3) Quotations must normally be sought from at least three suppliers but fewer suppliers may be used when three suppliers are not available within a reasonable distance, having regard to the value of the goods and services, the shipping or travel cost and the amount of time available before the goods and services are required to be available. If it is decided to obtain fewer than three quotations, the person responsible for that decision must document their reasons for doing so.

(4) Quotations must normally be obtained in writing, but when time does not permit the obtaining of written quotations, the quotations may be obtained verbally, except when this Policy stipulates otherwise. If a quotation is obtained verbally, the person obtaining it must document the quotation, including the time, date, supplier, price and description of the goods and services, the person from whom the quotation was obtained and the name of the municipal staff obtaining the quotation.

### **14. Public Tender:**

(1) Public tender means publicly advertising the Town of Trenton's intended procurement of certain goods or services and inviting responses from interested suppliers.

(2) Public tenders are used for higher value procurements, when the cost of the goods or services warrants the time, effort and expense required for a public tender process.

(3) Public tenders can be in the form of traditional tenders (see section 15), requests for proposals (see section 16), or two phase bids (see section 17).

### **15. Traditional Tender:**

(1) A traditional tender is a formal invitation to suppliers to submit a bid to supply specified goods or services.

(2) A traditional tender should be used when the procurement requirements of the Town of Trenton can be clearly and completely specified.

(3) Traditional tenders do not have to be opened in public, but if they are not, the name of each bidder and the amount of their bid must be made available to each bidder after the tenders are opened.

(4) The Town of Trenton must not negotiate with any bidders, but must award the procurement contract to the bidder that meets the tender requirements and provides best value to the Town of Trenton based upon the evaluation criteria set out in the tender and equitably applied to all bids.

## **16. Request for Proposals:**

- (1) A request for proposals is a formal invitation to suppliers to describe how their services, methods, equipment or products can address and/or meet the needs of the Town of Trenton.
- (2) A request for proposals may be used when the Town of Trenton is unable to clearly or completely specify the goods or services required, and suppliers are therefore asked to provide a solution to the problem, requirement or objective. Requests for proposals may also be used for professional and consulting services.
- (3) In order to preserve confidentiality of sensitive commercial information contained in a proposal, proposals submitted in response to a request for a proposal need not be opened in public, but must be opened in the presence of at least two representatives of the Town of Trenton and after the proposals are opened a list of the proponents must be available to the public and the proponents upon request.
- (4) Negotiations may be conducted with a proponent after proposals have been opened, subject to complying with the terms of the request for proposals which must be drafted to avoid unfair "bid-shopping" by the Town of Trenton (that is, to avoid using the bids submitted as a negotiating tool to obtain a better price or other benefit).
- (5) The Town of Trenton must award the procurement contract to the supplier whose proposal is determined to provide best value to the Town of Trenton based upon the evaluation criteria set out in the request for proposals and equitably applied to all proposals.

## **17. Two Phase Bids:**

- (1) A two phase bid process invites suppliers to submit bids as follows:
  - (a) Phase One: one or more steps in which bidders submit proposals for evaluation, either with or without prices in a separate submission;
  - (b) Phase Two: Only those bidders whose bids were determined to be acceptable based upon the evaluation criteria set out in the proposal and equitably applied to all proposals will be entitled to submit priced bids for consideration or, where prices are submitted separately in Phase One, the prices are opened.
- (2) A two phase bid process may be used when detailed specifications are not available or it is impractical to prepare a specification based on price. This type of procurement has the advantages of a request for proposals in Phase One and a traditional tender in Phase Two.
- (3) The Phase One submissions need not be opened in public, but must be opened in the presence of at least two representatives of the Town of Trenton and a list of the proponents will be available to the public and the proponents upon request. Phase Two bids must be opened in public.

(4) The Town of Trenton must not negotiate with any bidders, and must award the procurement contract to the supplier whose proposal is determined to provide best value to the Town of Trenton based upon the

evaluation criteria set out in the Phase One request for submissions equitably applied to all proposals, and the prices in Phase Two.

### **18. *Alternative Procurement Practices***

(1) In certain circumstances, described in this section, the Town of Trenton may purchase goods or services without using one of the options set out above. An alternative procurement purchase may occur only:

(a) Where an unforeseeable situation of urgency exists and the goods, services or construction cannot be obtained in time by means of open procurement procedures;

(b) Where goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentiality, cause economic disruption or otherwise be contrary to the public interest;

(c) Where compliance with the open tendering provisions set out in this Policy would interfere with the Town of Trenton's ability to maintain security or order or to protect human, animal or plant life or health;

(d) In the absence of tenders in response to an open or selective tender, or when the tenders submitted have been collusive, or not in conformity with the essential requirements in the tender;

(e) 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;

(f) 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;

(g) For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly;

(h) For the purchase of goods on a commodity market;

(i) For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor;

(j) 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;

(k) For the procurement of a prototype or a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases;

- (l) For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases;
  - (m) For the procurement of original works of art;
  - (n) For the procurement of subscriptions to newspapers, magazines or other periodicals;
  - (o) For the procurement of real property;
  - (p) For the procurement of goods intended for resale to the public;
  - (q) For procurement from philanthropic institutions, prison labour, persons with disabilities, sheltered workshop programs or through employment equity programs;
  - (r) For procurement from a public body or a non-profit organization; or
  - (s) For the procurement of services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation.
- (2) When an alternative procurement purchase occurs, the reason for doing so must be documented.

#### **PART IV – REQUIREMENTS FOR ALL PUBLIC TENDERS**

**19. The following requirements apply to all public tenders, whether traditional tenders, requests for proposals, or two phase bids:**

- (1) The Town of Trenton must provide reasonable notice and opportunity to respond to public tenders, and must post or place notices of public tenders as follows:
  - (a) on the public website maintained and operated by the government of Nova Scotia;
  - (b) on the Town of Trenton's website;
  - (c) in other media, as directed by the CAO, when the CAO determines that the cost and nature of the procurement warrants the expense of doing so.
- (2) Every public tender must include or have attached the terms and conditions that govern the tender.
- (3) The terms and conditions of every notice of public tender must be consistent with:
  - (a) the standard instructions that support public tenders issued by the four Atlantic provinces for goods and services, known as the Atlantic Standard Terms and Conditions (a copy of which is attached as Schedule "A" to this Policy), for the procurement of goods and services;
  - (b) the standard instructions that support construction tenders issued by the government of Nova Scotia, known as the Construction Contract Guidelines (a copy of which is attached as Schedule "B" to this Policy), for the procurement of construction.
- (4) Public tenders should normally include specifications or terms as follows:

(a) expressly outlining the issues or criteria that will be used for selection of a successful bidder or proponent;

(b) the lowest or any bid will not necessarily be accepted.

The town reserves the right to waive any informalities or non-compliance in any tender.

The Town reserves the right to cancel this tender at any time, accept or reject any tender or reject all tenders if none is considered to be satisfactory in the Town's sole discretion.

If the Town elects to reject all tenders it may, in its sole discretion and in addition to any other recourse it may choose, call for additional tenders or re-tender all or part of the work, all without incurring any liability and no proponent will have any claim against the Town as a consequence.

In evaluating the tenders the Town reserves the right to consider, among other things, the greatest value for money based on quality, service, price and local preference. The town reserves the exclusive right to determine the qualitative aspects of all tenders relative to the evaluation criteria.

The Town is not liable for any costs associated with responding to this tender.

The Town's Purchasing and Tendering Policy applies to this tender

(c) the location for delivery of bids or proposals;

(d) the means of delivery of bids or proposals, e.g., whether faxes or e-mails are acceptable in addition to "hard copy" submissions;

(e) the time and date of closing;

(f) a notification in the tender documents that proposals and bids are subject to the Freedom of Information and Protection of Privacy provisions of the Municipal Government Act.

(g) for design or architectural services, a statement that the Town of Trenton will own the copyright in the design, plans and other intellectual property produced for the Town of Trenton.

(5) Public tenders should also include a form of contract that the successful bidder will be required to enter into with the Town of Trenton or should direct that bidders or proponents must provide the form of contract with their bid or proposal.

(6) For each public tender that is awarded, the Town of Trenton must post the name of the successful supplier and the contract amount on the public website maintained and operated by the government of Nova Scotia, and on the Town of Trenton's website.

(7) The terms and conditions of every public tender must state the criteria that the Town of Trenton will use in evaluating responses. Those criteria are not limited to purchase price and life cycle cost considerations, but may also include items such as environmental and social considerations, delivery, servicing and the capacity of the supplier.

**20. Upon the request of a supplier who is an unsuccessful bidder in a public tender, the Town of Trenton must conduct a debriefing with that supplier to provide feedback on the evaluation of the public tender. The debriefing must be conducted as follows:**

- (1) the CAO and/or individuals who evaluated the public tender must conduct the debriefing;
- (2) the debriefing must provide reasons for the disqualification of the supplier, or in the case where evaluation scoring was used, provide an overview of the supplier's score in each category and reasons for that score;
- (3) the debriefing must also provide information to the supplier on how to improve future submissions;
- (4) the debriefing must not disclose any information regarding other bidders or their submissions.

## **PART V – LOCAL PREFERENCE AND SUSTAINABILITY CONSIDERATIONS**

### ***Local Preference***

**21. Municipal staff or Council (whoever has the authority to award the contract under this Policy) must give preference to purchasing goods and services from local businesses in accordance with the following:**

- (1) If the goods or services available from a local business are equal in providing best value to those available from a non-local business, the goods or services from the local business must be purchased.
- (2) In evaluating which goods or services offer best value to the Town of Trenton the Town of Trenton must apply a preference of 5% to the price offered by a local business as compared with non-local businesses, such that the price offered by the local business is adjusted lower by 5% for the purposes of evaluating which goods or services offer best value.
- (3) All requests for quotations and notices of public tender must state that local preference applies to the procurement.
- (4) In accordance with the Atlantic Procurement Agreement, the local preference described above does not apply to the following procurements:
  - (a) goods that have a value of \$25,000 or greater;
  - (b) services that have a value of \$50,000 or greater;
  - (c) construction that has a value of \$100,000 or greater.

## **Sustainability consideration**

**22. Pursuant to the Public Procurement Act, in evaluating which goods or services offer best value to the Town of Trenton the Town of Trenton may consider sustainability criteria, meaning environmental considerations, social considerations and economic considerations.**

**23. All requests for quotations and notices of public tender must list the sustainability criteria that apply to the procurement.**

## **PART VI - GENERAL**

### **Conflicts of Interest**

**24. If a staff member otherwise authorized to award a contract has a conflict of interest (that is, he or she stands to gain or lose financially from a contract award), the award must be made by the person to whom the conflicted staff member normally reports and the conflicted staff member must not participate in the procurement process related to the contract in any manner.**

### **Duration of Contracts**

**25. Contracts for goods and services that are required to be procured by public tender under this Policy, including price agreements, must be re-tendered at least once every five years but may be re-tendered more frequently at the direction of Council.**

### **Lease Arrangements**

**26. Lease arrangements are subject to the provisions of this Policy, save and except that Council's authority must be obtained for any leases required by the Municipal Government Act to be authorized by Council.**

### **Approval of form of tender**

**27. Public tendering documents are to be reviewed by the CAO or his or her designate prior to issuance to ensure consistency of tendering documents and practices.**

### **Expenditures**

**28. Expenditures for goods and services made pursuant to this Policy must be made in compliance with the Town of Trenton Purchasing Policy**

### **Estimating the value of goods and services**

**29. In determining the cost of the goods or services for the purpose of deciding which of sections 7, 8, 9 or 10 apply to a purchase, staff must reasonably estimate the cost of the goods or services.**

### **Posting on the Town of Trenton website**

**30. A copy of this Policy must be posted on the Town of Trenton's website.**

### **Compliance with Policy**

**31. All staff and Councillors must act in good faith to comply with this Policy, but failure to comply with this Policy does not invalidate any procurement decision or act of the Town of Trenton nor is the Town of Trenton liable to any supplier or prospective supplier for failing to comply with this Policy.**

**CAO's Annotation For Official Policy Book**

Date of Notice to Council Members of Intent  
To Consider (Minimum 7 Days): February 26, 2013

Date of Passage of Current Policy: March 12, 2013

I certify that this Policy was adopted by Council as indicated  
above.

D. G. Gillman  
Chief Administrative Officer

Mar 13/13  
Date