

Council Policy #:	CP2020-003
Council Policy Name:	Purchasing Policy
Date Approved by Council:	October 20, 2020, CR2020-304
Date revision approved by Council:	
Related SOP, Management Directive, Council Policy	Purchasing Policy Management Directive

Policy Statement and Rationale:

To ensure objectivity, accountability and transparency in the procurement process. To encourage competition among respondents by obtaining the highest quality goods, services or construction to maximize efficiencies, effectiveness, sustainability and cost savings, while ensuring that the Municipality has the flexibility to limit the purchase of goods and services where significant efficiencies and cost effectiveness may be achieved.

Scope:

The Purchasing Policy is intended to govern the manner in which the Corporation of the City of Kawartha Lakes purchases goods and services.

Municipal Boards and Corporations that have the authority through By-Law to establish their own Purchasing Policy shall not be bound by this policy.

Policy:

1.0 Definitions

- 1.1 **Accessibility** A general term for the degree of ease that something (e.g., device, service, physical environment and information) can be accessed, used and enjoyed by persons with disabilities. The term implies conscious planning, design and/or effort to make sure something is barrier-free to persons with disabilities. Accessibility also benefits the general population, by making things more usable and practical for everyone, including older people and families with small children.
- 1.2 **Aggregate Value** means the total amount anticipated to be spent for the initial term and any optional extensions, not including taxes.
- 1.3 **Award** is when a selected respondent and the City execute a legal contract for the respondent to supply or perform the goods and/or services.
- 1.4 **Budget** refers to the Council approved annual budgets.
- 1.5 **CAO** means the Chief Administrative Officer of the City.

- 1.6 **Change in Scope** shall mean any change to the scope of an awarded contract to accommodate a need not originally provided for in the contract.
- 1.7 **City** means the Corporation of the City of Kawartha Lakes.
- 1.8 **City Clerk** means the person appointed by Council to carry out the duties of the Clerk described in section 228 of the *Municipal Act, 2001*.
- 1.9 **Compliant Bidder** is used to describe a respondent or potential respondent who has complied with all the requirements of a procurement process.
- 1.10 **Contract** means a formal commitment by both parties, which may be in the form of an agreement executed by the respondent and the City or a Purchase Order issued by the City and confirmed by the respondent.
- 1.11 **Cooperative Procurement** means the participation of two or more public agencies in a procurement process.
- 1.12 **Council** means the Municipal Council for the City.
- 1.13 **Director** means the person who holds that position and his or her delegate or, in the event of organizational changes, another person designated by Council (includes the position of Fire Chief and Paramedic Chief).
- 1.14 **Emergency Procurement** is a situation where the immediate purchase of goods or services is essential to prevent serious delays, damage or injury, to restore minimum service or to ensure the health and safety of any person, including City staff or residents of the City.
- 1.15 **Employee-Employer Relationship** is applicable when a person's daily work is directed or controlled by the business, particularly when the method of executing duties is defined and an integral part of day-to-day operations.
- 1.16 **Expression of Interest** is a procurement method used to determine interest, where the scope of specifications of the required goods or services may not be clearly defined.
- 1.17 **Formal Procurement Process** is a procurement method where the bids are submitted in a sealed format.
- 1.18 **Goods, Services and Construction** include supplies, equipment, property, construction, maintenance and service contracts, consulting and professional services.
- 1.19 **Informal Quotation** is a procurement process issued by the Department for purchases under \$50,000, where three or more potential respondents have been contacted to provide a submission for specific and defined commodities.
- 1.20 **Lobbying** to communicate with, anyone other than the person designated in the procurement document, on the procurement of goods, services or construction and the

awarding of a contract for the purpose of swaying the results of an award of a procurement process.

- 1.21 **Non-Compliant Bidder** is a respondent or potential respondent who does not meet all the requirements of a procurement process.
- 1.22 **Person** refers to an individual, company or a corporate entity.
- 1.23 **Pre-qualification Request** would be used to invite prospective respondents to provide background information, capabilities and resources for upcoming specific procurements.
- 1.24 **Procurement Process** is the method selected to procure a good and/or service.
- 1.25 **Qualified Bid** is a bid that is restricted by a statement added to any portion of the submission or a covering letter that alters the intent of the procurement (counter offer).
- 1.26 **Request for Quotation/Proposal/Tender** is a procurement process issued by the Procurement Division.
- 1.27 **Segregation of Duties** is an internal control designed to prevent error and fraud by ensuring that at least two individuals are responsible for the separate parts of any task (ie. Purchase and approval).
- 1.28 **Single Source** means there is more than one source in the open market but for reasons of function or service, one respondent is being recommended.
- 1.29 **Sole Source** means there is only one known source of manufacture or supply of a particular good and/or service.
- 1.30 **Sustainable Procurement** - Purchasing of environmentally preferable products (goods and services) that have a lesser or reduced effect on human health and the environment when compared with other goods and services that serve a similar process
- 1.31 **Top Ranked Respondent** means the lowest compliant or highest scoring respondent.

2.0 Responsibilities:

- 2.1 Council is responsible to establish the City's procurement philosophy through this policy.
- 2.2 The Chief Administrative Officer is accountable to approve the detailed management directives that establish the operational framework.
- 2.3 Corporate Services is responsible to ensure that the City's Policy and Management Directive are adhered to.

3.0 Procurement Guidelines

- 3.1 Procurement practices shall be in accordance with all applicable federal and provincial legislation and local By-Laws, Trade Agreements, Policies, Code of Conduct and the Discriminatory Business Practices Act, R.S.O. 1990, c. D.12.
- 3.2 The procurement of goods and services will be evaluated for the risk to the City's ability to perform public services in a safe, secure and healthy environment and shall consider safety, accessibility standards, financial stability and quality of workmanship.
- 3.3 The procurement of goods and services will be in accordance with the City's Sustainable Purchasing Policy.
- 3.4 The City shall implement terms and conditions with the respondent to keep safe the City's staff, funds, property and capital assets.
- 3.5 The City may ban a respondent from submitting any future bids for an undetermined amount of time for failing to enter into a contract upon award.
- 3.6 Access to formal procurement process results information shall be made available according to the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).
- 3.7 The Procurement Division will provide debriefs within 60 days of notification of award. Debrief requests after the 60 days may be deferred to the Clerk's Office for a Municipal Freedom of Information request.
- 3.8 The Procurement Division will maintain a vendor performance program that all Departments can refer to for previous performance and incident reports.
- 3.9 A vendor listing will be available for Department internal use when requesting quotations for work under \$50,000.
- 3.10 The City will disqualify a respondent:
 - 3.10.1 if found to be engaging in lobbying with any elected official or City staff member for such purposes as to sway the results of an award of a procurement process. This period would cover the intent to procure (project conception/budget) up to the final award of the project.
 - 3.10.2 that has litigation against them that would affect their performance or reputation in performing the service or providing the goods and services requested by the City.
- 3.11 No expenditure or commitment shall be incurred or made and no account shall be paid by the City for goods and services, except as authorized in accordance with this policy or approved by the CAO or the Corporate Services Director and/or Council.

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- 3.12 All respondents (including Council Members and City Employees if applicable) must disclose to the City any perceived, potential or actual conflict of interest that exists prior to accepting an award from the City. If one arises after an award has been made, the respondent must notify the City immediately.
- 3.13 All respondents shall ensure that they along with all of their employees, volunteers and others for which they are responsible comply with the Accessibility for Ontarians with Disabilities Act and associated Regulations and the City's Accessibility Policy. All information (studies, reports, procurement submissions, etc.) provided to the City from a respondent will be in an accessible format.
- 3.14 All submissions will be evaluated to determine if the expectations of the procurement have been met.
- 3.15 The City shall establish a management directive authorized by the CAO on behalf of Council that details the expectations of this Policy.

4.0 Financial Considerations

- 4.1 Procurement awards for contracts valued at an Aggregate Value of \$100,000 or greater must be approved by Council if:
 - It contains a change in scope;
 - It has an irregular result as per section 6.0;
 - The recommendation encumbers future operating budgets; or
 - It is a Single or Sole Source.
- 4.2 The Procurement Division shall provide, to Council, a quarterly information report of:
 - awards greater than \$100,000 where the award was within budget and within scope; and
 - all Emergency procurements.

This summary will show the project number, successful respondent, total budget and amount of award. Emergencies where money will be pulled from reserves require a Council resolution in the quarterly report.

- 4.3 Tender/RFP results that result in a budget deficit of \$10,000 or less will be awarded and funding will be adjusted, if necessary, as part of the Capital Close Process.
- 4.4 The City will establish, as part of the Management Directive, a table of authority for procurement limit spending.
- 4.5 In the case of Restricted Acts (Lame Duck), as it applies within Section 275 of the Municipal Act 2001, as amended, delegation of Council's purchasing authority will be given to the CAO. The CAO will report to the new Council, purchases authorized during this delegated authority.
- 4.6 Where a funding or granting agency has rules for a procurement process that exceed this policy, the agency's rules for tendering and risk management shall override this policy.

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- 4.7 Where a funded independent Board or Corporation has been established by Council, the Board shall have the same level of authority as Council with respect to signing authority and the Chief Executive Officer, or equivalent, shall have the same level as the CAO.
- 4.8 An award may have optional renewal period(s) added to the term and must include the aggregate spend. All renewals must be included in the appropriate report, or will be subject to further approval at time of renewal
- 4.9 Procurements that encumber future operating budgets will be reported to Council if the annual aggregate value (including renewals) is over \$100,000.
- 4.10 Procurements by Visa (Pcard) are subject to the Management Directive and the Employee Expense Policy. No invoices are to be paid by Visa unless authorized by the Treasurer.

5.0 Procurement Process

- 5.1 An Open Competition will be advertised when the Goods and/or Service is valued over \$100,000.00.
- 5.2 An Invitational competition may be followed when the goods and/or service is valued greater than \$50,000, but less than \$100,000 (Aggregate Value including renewals).
- 5.3 Procurements that require specific equipment or materials to be used, must follow the Purchasing Policy where quotes were obtained or a single source has been approved prior to the items being included in the document.
- 5.4 The City may participate with other government agencies or public authorities in co-operative procurement opportunities, so long as they are in compliance with current legislation. The City will maintain a list of agencies they may participate with on an annual basis on the City's Website.
- 5.5 Emergency Procurement – When an event occurs where the immediate purchase of goods or services is essential to prevent serious delays, damage or injury, to restore minimum service or to ensure the health and safety of any person, including City staff or residents of the City. The CAO or Corporate Services Director may authorize the immediate procurement of the good or service required. All Emergency procurements will be reported to council through a quarterly report, as noted in item 4.2.
- 5.6 Single/Sole Source - may be used, under certain defined circumstances, when there is only one vendor that is able to supply the commodity or perform the work. The approval of a single/sole source will be agreed upon between the Department, Procurement Division and the CAO with Council approving over \$100,000.

Matters involving security, police matters, or confidential issues, a purchase may be made in a manner that protects the confidentiality of the contractor or the Corporation. Such purchases may be made as a Sole Source Purchase;

- 5.7 Rosters will have an authority level not to exceed \$50,000 per contract. Allowances for higher roster values may be considered, but must have Procurement and the CSD's approval. A Roster list will be used to pre-approve vendors to be on a list with second stage informal quotations being issued.
- 5.8 Any complaint on the Purchasing Policy and/or Management Directive or a complaint related to an award of a competitive process, shall be submitted in writing to the Corporate Services Director. All bid dispute resolutions will be in compliance with current legislation.
- 5.9 All bid dispute resolutions will be in compliance with current legislation.
- 5.10 The City may consider, when evaluating bids, whether a bid is unbalanced or unexpectedly low so as to indicate a failure on the part of a bidder to accurately assess scope and/or indicate a likelihood of extra claims. The City may request clarification which may or may not result in disqualification of the respondent.

6.0 Irregular Results

6.1 Irregular Result of a Competitive Procurement Process

Irregular results of a competitive procurement process require that the selection of the respondent for an award be approved by Council. The results of a competitive procurement process are considered to be irregular when any of the following occurs:

- all responsible and responsive submissions exceed the budget by more than \$10,000.00 and additional funds are required; and/or
- An award of the contract to the Top Ranked Respondent is considered to not be in the best interest of the City.

6.2 Major or Minor Irregularity

For the purposes of this policy, a submission showing irregularities are classified as "major irregularities" or "minor irregularities":

- A "major irregularity" is a deviation from the competitive procurement process request that affects the price, quality, quantity or delivery, and is material to the award. The bidder will be disqualified from the process. The City must reject any offer submitted, which contains a major irregularity. The person will be notified of the rejection due to the major irregularity.
- A "minor irregularity" is a deviation from the competitive procurement process request, which affects form rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. The bidder will be given the opportunity to adjust the irregularity and continue in the process. The City may permit the person to correct a minor irregularity to make the submission compliant.

7.0 Real Estate Developer Finance Capital

Where a real estate developer has requested in writing the use of a particular respondent for services being performed on a project, for which the real estate developer is funding the entire cost, no procurement process shall be required, provided the respondent is acceptable to the City.

8.0 Sponsorships and Donations

Where a donation or sponsorship request is received by the City, the Department will consult with the Procurement Division to ensure any process remains fair, open and transparent.

9.0 Standardization of Equipment

The City will endeavour to standardize goods and services through a competitive process whenever possible and must be in compliance with legislation. The Procurement Division will work with the Department/Division, to determine the best procurement process for standardization. This Purchasing Policy will take precedence over any other Policy or Management Directive with regards to standardization.

10. Procurement Exemption List

If the procurement falls within this list, no competitive process is required. Purchase orders may be issued according to the table of authority if required.

- Advertising (not intended to cover the cost of creative fees or project management fees associated with media expenditures, advertising or marketing)
- Building Leases
- Charges from area Municipalities in association with legal agreements
- Committee, witness and honoraria fees
- Conference/Trade show staff attendance, including travel and accommodations
- Debenture and sinking fund payments
- Election expenses
- Employment Agencies
- Grants to Government and Council approved Agencies
- Insurance Claim Payments
- MPAC Fees
- Legal Settlements
- Licenses (vehicles, elevators, radios, etc.)
- Licenses and maintenance costs for integrated software and systems
- Maintenance for specialty equipment (i.e. Equipment that is not easily moved and will incur float charges)
- Payments made under authority of the City's Service Manager role for Human Services
- Periodicals, books, magazines and subscriptions
- Postage



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- Professional licensed services: Legal Services, Notaries, Health Professionals, Land Surveyors, Arbitrators, Interpreters, Court Reporters
- Real Property and property appraisals (covered under By-Law)
- Renovation at a leased space where the lessor can only perform the renovation
- Statutory Employment expenses
- Staff Training (education and professional membership fees and associated costs)
- Utilities where there is only one provider
- Water/sewer connections for landowners
- Water and Wastewater Chemicals

11. Disposal of Assets

11.1 The City shall determine the best method to dispose of City assets no longer required for operations. Some of the methods may include but not limited to:

- Sale by Tender;
- Local Auction House;
- Donation to a not for profit agency;
- Government Auction.

11.2 Employees and elected officials of the City may bid on items provided that:

- they do not possess nor do they try to ascertain relevant insider information that would influence their offer;
- they remove themselves from submitting an offer on items that may be construed as a conflict of interest;
- they comply with all the requirements of the public sale.

Revision History:

Revision	Date	Description of changes	Requested By