



Council Policy

Council Policy #:	CP2017-009
Council Policy Name:	Purchasing Policy
Date Approved by Council:	April 18, 2017
Date revision approved by Council:	Not Applicable
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 vendors by obtaining the highest quality goods, services or construction to maximize efficiencies, effectiveness and cost savings, while ensuring that the Municipality has the flexibility to standardize goods and services where significant efficiencies and cost effectiveness are 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.

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, not including taxes.
- 1.3 **Award** is when a selected vendor and the City execute a legal contract for the vendor to supply or perform the goods and services.
- 1.4 **Budget** refers to the Council approved annual budgets.
- 1.5 **Change in scope** shall mean when the description of work for an approved capital project changes.
- 1.6 **CAO** means the Chief Administrative Officer of the City.
- 1.7 **City** means the Corporation of the City of Kawartha Lakes.



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- 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 **Contract or Agreement** Agreement/Contract is a specific type of document that, by its terms and elements, is legally binding and enforceable in a court of law.
- 1.10 **Council** means the Municipal Council for the City.
- 1.11 **Director** means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council (includes the position of Fire Chief and Paramedic Chief).
- 1.12 **Goods and Services** include supplies, equipment, property, construction, maintenance and service contracts, consulting and professional services.
- 1.13 **Lobbying** to communicate with any City staff or elected official on the procurement of goods, services or construction and the awarding of a contract. A lobbyist refers to one whose purpose is to persuade another by influencing their decision.
- 1.14 **Person** refers to a person recognized as a legal entity at law. This is an individual or a corporate entity. Partnerships or unincorporated associations are recognized only as groups of persons.
- 1.15 **Procurement process** is the method selected in the procurement of a good and/or service.
- 1.16 **Responsible** is used to describe a vendor or potential vendor whose reputation, past performance and business and/or financial capabilities give it credibility.
- 1.17 **Responsive** means an offer that does not vary from the specifications, terms and conditions set out in a procurement process.

2.0 General Principles

- 2.1 Procurement practices shall be in accordance with all applicable federal and provincial legislation and local By-Laws, Policies and Code of Conduct.
- 2.2 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.
- 2.3 The City shall implement terms and conditions with the vendor to keep safe the City's staff, funds, property and capital assets.
- 2.4 When an Award is forfeited, the City may retain any sureties submitted.
- 2.5 Access to formal procurement process results information shall be made available to the public, by report and/or on request, except to the extent that such information is confidential information protected from disclosure under the provisions of Municipal



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Freedom of Information and Protection of Privacy Act (MFIPPA). Vendor information is considered third party information.

- 2.6 The City must endeavor to prevent advantage created by lobbying. The City may disqualify, at any time (including after the selection process has been completed) and at its sole discretion, any person engaging in lobbying with any elected official or unauthorized employee of the City.
- 2.7 The City shall maintain a vendor performance management program.
- 2.8 The City may disqualify a vendor 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.
- 2.9 Any persons entering into a contract with the City will have paid any outstanding monies owed to the City. During a contract term, the City may hold back and/or set off payments to a vendor until outstanding funds owed to the City are paid.
- 2.10 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.
- 2.11 All vendors, Council Members and City Employees 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 vendor must notify the City immediately.
- 2.12 All vendors 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.
- 2.13 All submissions will be evaluated to determine if the expectations of the procurement have been met. The management directive to this policy identifies the situations that may cause the City to disqualify a vendor.
- 2.14 The City will not be responsible for any damages alleged to be suffered by a bidder as a result of the City's decision to disqualify that bidder, or to cancel the procurement process.
- 2.15 The City shall establish a management directive authorized by the CAO on behalf of Council that details the expectations of this Policy.

3.0 Financial Considerations

- 3.1 Procurement awards for tenders valued at \$100,000 or greater that contain a change in scope, have an irregular result as per section 5.0, are a Single or Sole Source, or are anticipated to result in the Council approved budget being exceeded (by \$10,000 or greater) must be approved by Council.



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- 3.2 The City shall provide to Council a quarterly summary of all tender awards greater than \$100,000 where the award was within budget and within scope. This summary shall provide: the project number, successful vendor, total budget and amount of award. Any irregular results will be identified separately as to the irregularity.
- 3.3 Procurement awards for request for proposals valued at \$100,000 or greater must be approved by Council.
- 3.4 A procurement process will be followed to determine the current market value of goods and services.
- 3.5 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.
- 3.6 A competitive process may be cancelled at any time without cause if it is in the best interest of the City to do so. Rationale for cancellation shall include, but is not limited to: all responsive and responsible submission are substantially over budget or an irregular result occurs.
- 3.7 The City will establish as part of the Management Directive a table of authority for procurement limit spending up to Council's approved limit.
- 3.8 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.
- 3.9 Municipal Boards and Corporations that have the authority through By-Law to establish their own purchasing policy shall not be bound by this policy.
- 3.10 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 shall have the same level as the CAO.
- 3.11 A contract term may have optional renewal period(s) added to the term for execution at the discretion of the City.

4.0 Procurement Process

- 4.1 A Competitive Procurement Process will be advertised when the Goods and Service is valued over \$100,000.00.
- 4.2 A Formal Procurement Processes will be followed when the goods or services is valued over \$50,000.

- 4.3 The City may participate with other government agencies or public authorities in co-operative procurement/acquisition ventures or utilize a 'piggy back clause' within public sector contracts and consortiums.
- 4.4 Emergency Procurement - When an event occurs that is determined by a Director to be: a threat to public health or the welfare of Persons or of public property; or the security of the City's interests and the occurrence requires the immediate delivery of goods or services and time does not permit for competitive procurement process. The CAO or Corporate Services Director may authorize the immediate procurement of the good or service required. These situations must be reported on a quarterly basis to Council through a Council Report.
- 4.5 Single Source means there is more than one source in the open market but for reasons of function or service, one vendor is recommended. Rationale for selection is included in the management directive.
- 4.6 Sole Source means there is only one known source of manufacture or supply of a particular good and/or service. The procurement is of real property or original work of art. This good or service could be copyrighted or trademarked, or simply not available for general purchase.
- 4.7 Any complaint on the Purchasing Policy and procedures or a complaint related to an award of a tender, proposal or quotation shall be submitted in writing to the Corporate Services Director.
- 4.8 Where a written complaint is received in advance of an award, the complaint will be included in the Council report.
- 4.9 All competitive procurement documents shall have specific closing dates and times. A sealed submission for a formal competitive procurement process will be opened at a public meeting. Late submissions will not be considered.
- 4.10 City may consider, in 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 extras claim. The City may disqualify the vendor.

5.0 Irregular Results

5.1 Irregular Result of a Competitive Procurement Process

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/or

- fewer than three (3) submissions are received in a formal competitive procurement process; and/or
- An award of the contract to the lowest responsible and responsive vendor is considered to not be in the best interest of the City.
- Irregular results of a competitive procurement process require that the selection of the vendor for an award be approved according to the Table of Authority.

5.2 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.
- Refer to the Management Directive for a non-exhaustive list of examples of major and minor irregularities.

6.0 Disposal of Assets

6.1 The City shall determine the best method to dispose of City assets no longer required for operations.

6.2 Employees and elected officials of the City may respond to a sale of surplus by submitting a quote on any City asset disposal provided:

- 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 as detailed herein;
- They comply with all the requirements of the public sale.

7.0 Goods and Services Exempt from the Purchasing Policy

- Legal settlements

- Banking and underwriting services
- Building Leases
- Election expenses
- Insurance claim payments
- Postage
- Employment expenses: income, benefit payments, premiums, Workers compensation
- Real Property (covered under By-Law)
- Debenture and sinking fund payments
- Licenses (vehicles, elevators, radios, etc.)
- Grants to agencies
- Advertising
- Charges from area Municipalities in association with legal agreements
- Charges from other government or crown corporations
- Payments to Social Service and Health Agencies
- Staff Training, education and professional membership fees and associated costs
- Professional licensed services: Audit, Accounting Services, Legal Services, Notaries, Health Professionals, Land Surveyors, Economists, Arbitrators, Interpreters, Court Reporters
- Licenses and maintenance costs for proprietary software and systems
- MPAC fees
- Utilities
- Employee Expenses, payroll deductions and tax remittances
- Renovation at a leased space where the lessor can only perform the renovation
- Committee, Witness and honoraria Fees
- Trade show vendor attendance in promotion of the City (new)
- Fleet maintenance for heavy trucks and specialty equipment
- Water/Sewer connections for landowners
- Periodicals, books, magazines and subscriptions

7.1 Real Estate Developer Finance Capital

Where a real estate developer has requested in writing the use of a particular vendor 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 vendor is acceptable to the City.

7.2 Sponsorships and Donations

Where money from bequests, sponsorships or donations is received by the City with a written request to use the money to fund all of the cost of the purchase of specified goods and services from specified vendors, no procurement process will be required, provided the vendor is acceptable to the City.

7.3 Standardization of Equipment



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The City, wherever possible, shall standardize the procurement of goods and services to allow for:

- a. Standardization of equipment;
- b. Reduced the number of goods and services required;
- c. Maximize volume buying opportunities;
- d. Provide economies of scale;
- e. Reduced handling, training and storage costs;
- f. Minimize maintenance costs;
- g. Co-operative purchasing activities;
- h. Competitive bid results; and
- i. Reduced overall cost.

8.0 Responsibilities

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

Revision History:

Revision	Date	Description of changes	Requested By