#### THE CORPORATION OF THE MUNICIPALITY OF



# BY-LAW NO. 2016/89 A BY-LAW TO ESTABLISH PURCHASING POLICIES AND PROCEDURES FOR THE MUNICIPALITY OF WEST NIPISSING

PASSED: September 20, 2016

### **PURCHASING POLICIES AND PROCEDURES**

## 2016/89

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#### THE CORPORATION OF THE MUNICIPALITY OF WEST NIPISSING

#### BY-LAW 2016/89

## BEING A BY-LAW TO ESTABLISH PURCHASING POLICIES AND PROCEDURES FOR THE MUNICIPALITY OF WEST NIPISSING

**WHEREAS** the *Municipal Act*, 2001, Part VI, Section 270, as amended states that a municipality and a local board shall adopt policies with respect to its procurement of goods and services.

**NOW THEREFORE BE IT RESOLVED THAT** the Council for the Corporation of the Municipality of West Nipissing enacts as follows:

#### 1.0 PURPOSE

- 1.1 The purpose of this policy is to set out guidelines for the municipality to ensure that all purchase of materials, supplies and services provide the lowest costs consistent with the required quality and service.
- 1.2 An open and honest process shall be maintained that is fair and impartial.
- 1.3 The purchasing policy will promote and maintain the integrity of the purchasing process and protect Council, vendors and staff involved in the process by providing clear direction and accountabilities.

#### **2.0 DEFINITIONS**: in this By-law,

"Agreement to Bond" shall mean an insurance agreement by which a third party (a surety) guarantees that if a Contract is awarded to the Bidder, the Bidder is capable of furnishing Bonds as required.

"Bid" shall mean a tender, proposal, or quotation submitted in response to a solicitation process.

"Bidder" shall mean a person or entity that submits a Bid in response to a Bid Request.

"Bond" shall mean a form of financial protection against damages, a binding agreement executed by a Contractor/Bidder and a third party (surety) to guarantee the performance of certain obligations or duties to the Municipality

"Contract" shall mean any written agreement, regardless of form or title, authorized or ratified by the appropriate authority and executed by the appropriate authority for the purchase of goods and services in exchange for money or other consideration.

"Contractor" shall mean the selected Bidder or Proponent to whom the Contract for the purchase of Goods, Services, or Construction is awarded and executed under the terms of the Contract.

"Department" shall mean a department of the Municipality.

"Emergency" shall mean a situation where serious delay may affect the life and health of the general public, prevention of serious damage, and the restoring of essential service levels to a minimum level.

**"Expanded works"** shall mean approved construction projects in which an unexpected problem arises during construction, which does not expand the scope of the project but is necessary in order to deliver the original approved work.

"Goods" shall include goods of all kinds, including both tangible and intangible goods, and shall include supplies, materials, equipment, and fixtures to be delivered, installed, and/or constructed.

The word "his" shall in all cases mean his or her and "he" shall in all cases mean he or she.

"Low Value Purchase" shall mean a purchase of Goods or Services not covered under an existing Contract and having a purchase value up to the limits stated in Schedule "B" of this by-law.

- "Proponent" shall mean a person or an entity who submits a bid to a Request for Proposal or Quick Bid in the form of a Request for Proposal.
- "**Proposal"** shall mean the document received from a Proponent in response to a Request for Proposal or Quick Bid in the form of a Request for Proposal.
- "Purchase Order" shall mean a written offer to a Contractor/Vendor formally stating all terms and conditions for the purchase of Goods, Services, or Construction or a written acceptance of an offer received in accordance with this by-law.
- "Quick Bid" shall mean a purchase of Goods or Services not covered under an existing Contract and having a purchase value up to the limits stated in Schedule "B" of this by-law. A Quick Bid may be in the form of a Request for Proposal or Request for Quote.
- "Request for Pre-Qualification" shall mean a request which will be used to determine qualified bidders or proponents which will include, but not be limited to, experience, financial strength or personnel that may bid on a subsequent procurement process for Goods, Services or Construction;
- "Request for Proposal (RFP)" shall mean a solicitation for proposals for Goods, Services, or Construction where price is usually not the primarily evaluation factor in these proposals. An RFP may provide for negotiation of all terms, including price, prior to Contract Award. An RFP may include the provision for the negotiation of best and final offers and may be a single step or multi-step process.
- "Request for Quotation (RFQ)" shall mean a request for prices for the provisions of Goods, Services, or Construction, where the requirements are defined.
- "Request for Tender (RFT, Tender)" shall mean a request for tenders from Bidders to obtain irrevocable bids for the supply of goods or services where there are defined requirements
- "Services" shall mean the furnishing of labour, time, or effort by a Contractor, which may involve the delivery or supply of products, a Contract for labour to perform a service to meet a specific requirement, or any professional or general service work performed which does not result in the delivery of Goods or materials.
- "Sole Source" shall mean there is only one known source of supply of particular goods or services.
- "Solicitation" shall mean an invitation for Bids or Proposals
- "Standing Purchase Order" shall mean a Purchase Order, which establishes prices or a method for determining prices, terms and conditions, and the period of time during which a vendor agrees to provide goods or services to the purchaser upon the purchaser's demand. This may be for a period not exceeding two (2) years.
- **"Supplier"** shall mean the selected Bidder or Proponent to whom the Contractor for the purchase of Goods or Services is awarded and executed under the terms and conditions of the Contract
- "Time-sensitive Works" shall mean works for which the timing to initiate and/or complete the works is paramount but the time available to follow normal procedures is insufficient.
- "Vendor" shall mean a supplier of Goods or Services

#### 3.0 POLICY STATEMENT

- 3.1 All purchases of goods and services for the Municipality of West Nipissing shall be subject to the provisions of this By-law. Prices and Approval Levels as stated in this By-law are intended to be before tax amounts.
  - In the event that a Department chooses to ask a Consultant to coordinate the procurement of Goods, Services, or Construction then it shall be the responsibility of the respective Senior Manager to ensure that all conditions of this by-law are adhered to.
- 3.2 No appointed officer or employee of the Municipality of West Nipissing will have any interest directly or indirectly, as a contracting party, partner, shareholder, surety or otherwise in any contract for goods or services or in any portion of the profits thereof or on any supplies to be used herein, or in any of the monies to be derived therefrom, unless approved by resolution of Council prior to the officer or employee tendering or quoting.

- 3.3 No purchase of goods and services shall be authorized unless it is in compliance with the Purchasing Policy and Procedures. Goods and Services that are obtained without following the provisions of the aforementioned will not be accepted and any invoices received will not be processed for payment.
- 3.4 Disputes, received in writing, shall be resolved as follows:
  - i. Meeting between the bidder and Manager responsible
  - ii. If (i) does not lead to a resolution the decision can be appealed to the Director of Corporate Services or to the Chief Administrative Officer
  - iii. If (ii) does not lead to a resolution, the decision can be appealed to the Council.
- 3.5 Subject to any direction that may be given, the purchasing Department shall decide the method of Solicitation, which shall be employed to obtain the most favourable price, having regard to the nature or importance of the contemplated work, the urgency of the requirement, and general trade practice and market conditions, in accordance with the thresholds set out in Schedule "B" of this by-law.
- 3.7 Notwithstanding the provisions of this By-law, emergency purchase of goods, works and services may be made by Chief Administrative Officer or his delegate, in the case of an emergency. The immediate purchase must be essential to prevent delays in the work of any user group, which might involve additional cost or danger to life and damage to property. In all such cases, an information report to the Council shall be prepared by the respective Senior Manager, setting out the nature of the emergency and the necessity of the action taken pursuant to this clause.
- 3.8 This By-law will be reviewed and revised on a periodic basis. It is anticipated that reviews will be conducted every five years or more frequently as required.

#### 4.0 RESTRICTIONS AND EXCEPTIONS

- 4.1 The open and competitive procurement procedures set out in this By-Law shall not apply to the purchase of those items listed in **Schedule "A"** attached hereto or as otherwise listed in this By-Law;
- 4.2 No contract for Goods or Services may be divided into two or more parts to avoid the application of the provisions of this by-law;
- 4.3 No bid shall be accepted, nor contract be awarded to any person or corporation who or which, has now or in the past, made a claim, demand, action or other legal proceeding against the Municipality or any board or committee or corporation owned or controlled by it; or against whom or which the Municipality or any board or committees or corporation owned or controlled by it, has now or in the past, made a claim, demand, action or other legal proceeding with respect to any previous or existing contract, except in such circumstances as deemed necessary by the Chief Administrative Officer;

#### 5.0 APPROVAL LEVELS

- 5.1 Formal approval of the annual budget constitutes financial approval to proceed with the purchases subject to any scheduling or priority considerations as may be deemed necessary by Council and as outlined by the Purchasing Policies.
- 5.2 Prior to the passing of the annual operating budget, each Department shall be allowed an interim appropriation of fifty (50%) of the previous year's approved operating budget, and such interim appropriation shall be deemed to be for routine operating and recurring expenditures or statutory purposes unless otherwise directed by Council.

#### 5.3 <u>APPROVAL LEVELS:</u>

Up to \$5,000	Managers and other designated by Director
Up to \$10,000	Directors, Chief Administrative Officer
Over \$10,000	Chief Administrative Officer, Treasurer

#### 6.0 STANDARD PROCUREMENT METHODS

The method of purchasing Goods and Services shall be in accordance with the standard procurement methods described in this section and shall be advertised, reported, approved and the Contract executed in accordance with Schedule "B" of this By-law. They may be utilized individually or in combination with one another, as may be appropriate in the circumstances.

#### 6.1 REQUEST FOR PREQUALIFICATION ("RFPQ")

- i. A RFPQ is used to gather information regarding a supplier's capability, capacity and qualifications, with the intention of creating a list of pre-qualified suppliers. The purpose of this process is designed to reduce effort devoted to the Call for Bid process and may be used when the following criterion applies:
  - (a) To understand which respondents have the capabilities required by the Municipality to complete the requirement, as the first stage of a two-stage solicitation (followed by either a RFQ, RFP or RFT), whereby only prequalified respondents will be invited to take part in the competitive process.
- ii. A submission in response to a RFPQ does not create any contractual obligation between the Municipality and the respondent.
- iii. The RFPQ process will be administered by the purchasing Department.

#### 6.2 LOW VALUE PURCHASE ("LVP")

- i. A LVP may be used for the procurement of Goods or Services not covered under an existing Contract and having a purchase value up to the limit as stated in Schedule "B" of this By-law.
- ii. The respective Director shall authorize specific individuals to make LVP and assign a limit of spending authority.
- iii. These purchases may be made utilizing a purchase order, petty cash, supplier account, or purchasing card (i.e. fuel cards).
- iv. These purchases are within the discretion of the respective Management Staff or Director who shall also determine the need for competitive quotes and/or that purchases demonstrate good value.
- v. Competition and advertisement are not required to make a LVP, but can be made and handled by any Department Manager.

#### 6.3 QUICK BID (QB)

- i. A Quick Bid shall be used for the purchase of Goods, Services, or Construction not covered under an existing Contract and having an estimated total cost up to the limit as stated in Schedule "B" of this By-law.
- ii. Advertising is not required and may be accomplished through an invitational process using a Bidders / Proponents list or supplier sourcing. Advertising may be utilized where it is deemed in the best interest by the Director or designate to ensure value for the Municipality.
- iii. Solicitations and a minimum of three (3) responses for a QB will be accepted using any one of the following mediums, as directed in the Call for Bid:
  - a) Facsimile
  - b) Email
  - c) Internet
  - d) Sealed Bid
- iv. A supplier registration program may be used to assist management in seeking price quotations.
- v. Where three (3) responses cannot be obtained, approval to purchase is required by the CAO, Treasurer, or designate.
- vi. Award of a QB will be in the form of a Purchase Order.

#### 6.4 <u>REQUEST FOR QUOTATION (RFQ)</u>

- i. A RFQ Is used for the procurement of Goods or Services where the Municipality has defined the requirements, a clear solution exists, and the estimated purchase value is within the limits as stated in Schedule "B" of this By-law.
- ii. The intention is to award to the lowest compliant Bidder, although the lowest or any Bid may not necessarily be accepted.
- iii. Departments may directly request quotations for Goods or Services with a purchase value up to the limit as stated in Schedule "B" of this Bylaw.

#### 6.5 REQUEST FOR PROPOSALS (RFP)

- i. A Request for Proposal is issued when price is not the primary evaluation factor or it is not possible to prepare precise specifications in order to solicit bids or quotations for the provision of goods services and/or construction.
- ii. A RFP may provide for negotiation of all terms, including price, prior to award. The scope of negotiability may be restricted in the RFP. A RFP may include the provision for the negotiation of best and final offers and may be a single or multi-step process.
- iii. A RFP may be used where, after applying the following criteria, it is determined that the RFP is a more appropriate form of procurement than a RFT:
  - a. When the effectiveness of the proposed solution is based on several stated criteria as opposed to price alone;
  - b. The procurement is required as a result of a peculiar problem, requirement or objective;
  - c. Negotiations with one or more proponents may be required to develop the final Contract; or
  - d. The specification for the procurement cannot be defined or is unknown and it's expected the proponent will further define them.
- iv. The most qualified proponent offering the best value shall be determined using the evaluation criteria stated in the RFP.

#### 6.6 REQUEST FOR TENDER (RFT)

- i. A RFT is used to obtain irrevocable Bids for the procurement of Goods or Services having an estimated value as stated in Schedule "B" of this bylaw and where the following criteria apply
  - a. Where the nature of the Goods and Services or construction required is such that specifications can be clearly defined and evaluated
  - b. Two or more sources are considered capable of supplying the Goods, Services or construction: and
  - c. market conditions are such that bids can be submitted on a competitive pricing basis
- ii. The intention is to award to the lowest compliant Bidder without negotiation although the lowest or any Bid may not necessarily be accepted.
- iii. Solicitation of an RFT shall be advertised in accordance with Schedule" B" of this Bylaw. In the case of a pre-qualified RFT, only the selected pre-qualified Bidders shall be notified about the Solicitation and be eligible to bid.
- iv. A RFT shall be undertaken and administered by the Finance Department.
- v. Bids in response to a RFT shall be received by the Finance Department. At a time specified within the Bid Request on the closing date, the Bid envelope shall be opened publicly and prior to internal review, each Bidder's name and unofficial Bid total amount shall be publicly read.
- vi. Any irregularities in a Bid submitted in response to an RFT shall be dealt with in accordance with Policy 2006/332 "Validity of Tenders".

#### 7.0 INVENTORY

7.1 Each Department has the ability to establish inventories to ensure an efficient method of managing the delivery of Goods. Minimum and maximum levels shall be established for each inventory item. Purchases in respect of inventory are subject to the provisions of this By-law.

#### 8.0 PURCHASING PROCEDURES

The following purchasing procedures shall apply to the purchase of Goods and Services:

- Where applicable, each of the Procurement methods set out in this by-law shall be undertaken in compliance with the following:
  - (a) the scope of the Goods, Services or Construction shall be clearly and extensively defined by the Bid Document;
  - (b) the Bid document shall be, to the extent possible, standardized using common forms and processes;

- (c) the Solicitation shall be advertised, if applicable, to ensure the most comprehensive and competitive response reasonably possible to the Solicitation, at the discretion of the purchasing department and in accordance with Schedule "B" of this by-law;
- (d) all Bids received by the Municipality shall be kept together in a secure place until the time for opening;
- (e) all Bids shall be evaluated using an open, fair, and transparent process as may be possible under the circumstances of a particular Solicitation;
- (f) for Proposals, the evaluation criteria, and evaluation rating shall be identified in the Request for Proposal document and shall be evaluated by the Evaluation Committee based on that criteria and rating, unless superseded by an Addendum, using a standardized form of evaluation record;
- (g) all Bid Documents shall clearly set out the requirements for the price element of the Bid, specifying whether the Bid price is submitted on a unit price or subtotal or total price basis and whether it is net of any taxes; in addition, a Bid Document may include provisions for early payment discounts, premiums, financing charges, administrative costs, cost of living or other escalations, contingencies or other deductions or additions and how any contract extras shall be dealt with;
- (h) Bid records shall be filed and maintained in accordance with any applicable record retention by-law and/or policy of the Municipality;
- (i) Bids shall be awarded based on the terms and conditions specified in the Municipality's Bid Documents and in accordance with this by-law;
- (j) When identical low bids are received, the C.A.O. or Treasurer or designate, shall determine the low bidder on the basis of a coin toss, conducted in the presence of the tied bidders.
- (k) all Bidders shall be required to comply with the Contract preparation and execution requirements in the Bid document if they are awarded the Contract;
- (I) Contracts shall be monitored and documented by the Department Head to ensure that performance is in accordance with the requirements of the Contract and steps shall be taken to correct the performance of a Contractor where it falls below the standard required by the Contract; and
- (m) all Contracts, once awarded and executed by the Municipality, are public documents, save and except for detailed pricing submissions and personal information protected under the *Municipal Freedom of Information and Protection of Privacy Act*. No Bidder may insert conditions to exempt their Contract from such public disclosure or accessibility.

#### 9.0 BID IRREGULARITIES

9.1 Any bid irregularities shall be addressed in accordance with Policy 2006/332 Validity of Tenders.

#### 10.0 CONTRACT AWARD

- 10.1 Prior to commencement of work or the provision of Goods or Services, the selected Bidder must
  - a) Execute a Contract;
  - b) Acquire a Purchase Order, or
  - c) Obtain a written requisition from the Municipality
- 10.2 Where applicable, all deposit cheques and/or bid bonds, other than the low and second low bids, shall be returned to the applicable bidders by regular mail, by the Finance Department, and all original submission forms shall be retained on file.
- 10.3 Where applicable, the bid deposit of the successful bidder will be returned by regular mail, once the necessary security documentation is received.
- 10.4 Where applicable, a selected bidder shall be required to submit any and all such documents, certificates, and securities as required for the performance of the Contract. Such items may include, a Bond, other security for damages in the form of a negotiable instrument, insurance, a contractor's Health and Safety policy, WSIB clearance certificate, confirmation of compliance with AODA, and a project schedule.

11.0	REPEAL	
9.1	The Municipality of West Nipissing Purchasing repealed.	Policy No. <b>2004/65</b> , as amended, is hereby
ENACT	ED AND PASSED THIS 20 <sup>th</sup> DAY OF SEPTEMBER	2016 AS WITNESSED BY THE SEAL OF THE
	PRATION AND THE HANDS OF ITS PROPER OFFICERS	
	E SAVAGE,	MELANIE DUCHARME,
MAYO	3	CLERK

#### The Corporation of the Municipality of West Nipissing

## PURCHASING POLICIES AND PROCEDURES BY-LAW 2016/89, SCHEDULE "A" - EXCEPTIONS

#### 1. TRAINING AND EDUCATION

- (a) Registration and tuition fees for conferences, conventions, courses or seminars
- (b) Magazines, books and periodicals
- (c) Memberships and professional insurance

#### 2. REFUNDABLE EMPLOYEE/COUNCILLOR EXPENSES

- (a) Advances
- (b) Meal allowances
- (c) Travel and entertainment
- (d) Miscellaneous non-travel expenses, approved by the C.A.O.

#### 3. EMPLOYERS GENERAL EXPENSES

- (a) Payroll deduction remittances
- (b) Medical
- (c) Licenses (vehicles, firearms, elevators, etc.)
- (d) Debenture payments
- (e) Grants to agencies
- (f) Damage Claims
- (g) petty cash replenishment
- (h) Tax remittances

#### 4. PROFESSIONAL AND SPECIAL SERVICES

- (a) Committee fees
- (b) Legal fees and other professional services necessary for receiving timely and accurate advice or assistance;
- (c) Honorariums

#### 5. UTILITIES

- (a) Water and Sewer
- (b) Hydro
- (c) Natural Gas
- (d) Telephone
- (e) Cable television
- (f) Internet services
- **6.** Lease, Sale or Purchase of Real Property
- 7. Advertising
- **8.** Purchase of replacement parts where original equipment manufacturer is the sole provider of such equipment or part
- **9.** Single source supply
- 10. Entertainers for special events

The Corporation of the Municipality of West Nipissing

# PURCHASING POLICIES AND PROCEDURES BY-LAW 2016/89, SCHEDULE "B" - PROCUREMENT THRESHOLDS

DOLLAR THRESHOLD	METHOD OF PROCUREMENT	SOURCE OF BIDS (ADVERTISING)	APPROVAL	CONTRACT TYPE	SUPPORTING DOCUMENTATION LOCATION
Advertising no	ot required				
\$0 to \$5,000	• Low Value Purchase (LVP)	Competitive marketplace where possible and practical	Municipal staff as delegated by relevant Director	Purchase order (verbal or hard copy), petty cash, supplier account, purchasing card	Accounts Payable
\$5,001 to \$25,000	Quick Bid (QB)     Request for     Quotation (RFQ)	<ul> <li>Advertising at the discretion of the Director, in consultation with Department Manager</li> <li>Invitational to list of bidders</li> <li>Minimum of three (3) written quotes where possible</li> <li>Direct negotiation with single source or sole source supplier</li> </ul>	≤ \$10,000 <ul> <li>Directors</li> <li>Fire Chief</li> </ul> > \$10,000 <ul> <li>CAO</li> <li>Treasurer</li> <li>(in consultation with relevant Director)</li> </ul>	Purchase order	Sourcing department
Advertising re	equired				
\$25,001 to \$50,000	<ul> <li>Request for Quotation (RFQ)</li> <li>Request for Proposal (RFP)</li> <li>Request for Tender (RFT)</li> </ul>	Advertising is required. The method of advertising is at the discretion of the relevant Director	<ul> <li>CAO</li> <li>Treasurer (in consultation with relevant Director)</li> </ul>	Purchase order with standard terms and conditions and/or purchase agreement (executed by CAO or Treasurer)	Finance department
> \$50,000	Request for Quotation (RFQ)     Request for Proposal (RFP)     Request for Tender (RFT)	<ul> <li>Advertising is required</li> <li>Advertised on municipal website</li> <li>Advertised on MERX</li> <li>Other methods of advertising are at the discretion of the relevant Director</li> </ul>	Council	Purchase order with standard terms and conditions and/or contract (executed by Mayor and CAO)	Finance department