

THE CORPORATION OF THE MUNICIPALITY OF POWASSAN

BY-LAW NO. 2005- 19

**BEING A BY-LAW TO ADOPT PURCHASING POLICIES AND PROCEDURES
FOR THE MUNICIPALITY OF POWASSAN**

WHEREAS in accordance with Section 271 of the Municipal Act, S.O. 2001, c.25, imposes on municipalities the obligations to adopt policies with respect to the procurement of Goods and Services;

AND WHEREAS the Council of The Corporation of the Municipality of Powassan deems it expedient to adopt Purchasing Policies and Procedures for the Municipality of Powassan.

NOW THEREFORE the Council of the Corporation of the Municipality of Powassan enacts as follows:

1. That council adopts Purchasing Policies and Procedures for the Municipality of Powassan identified as Schedule "A", hereto attached and forming part of this by-law.
2. That this By-Law shall come into force and take effect on the date of its final passing.
3. That By-Law 2001-38 is now repealed.

READ A FIRST TIME AND CONSIDERED READ A SECOND AND THIRD TIME
AND ADOPTED AS SUCH IN OPEN COUNCIL THIS 19th DAY OF JULY,
2005.

MAYOR

CAO/CLERK

SCHEDULE “A” TO BY-LAW NO. 2005-19

PURCHASING POLICIES AND PROCEDURES

FOR THE

MUNICIPALITY OF POWASSAN

PURCHASING POLICY INDEX

	Page	
Section 1		
Definitions	4	
Section 2		
Purchasing Objectives	7	
Section 3		
Defining the Responsibilities & Prohibitions of Procuring Goods and Services	8	
1.	General Responsibilities	8
2.	Administration Responsibilities	8
3.	Department Head Responsibilities	9
4.	Requirement for approved funds	9
5.	Restrictions	10
6.	Total Project Cost	10
7.	Prescribed Council Approval and Emergency Authority	10
8.	Cancellation of Bid Solicitation	11
Section 4		
Procurement Procedures	12	
1.	General	12
2.	Policy for Specifications	13
3.	Policy for Approval Authority	13
4.	Policy for Petty Cash Purchase of \$200 or less	13
5.	Policy for Low Dollar Value Purchase (up to \$1000)	13
6.	Policy for Request for Quotations (\$1000 to \$10000)	14
7.	Policy for Request for Proposal	14
8.	Policy for Request for Tender	15
9.	Policy for In House Procurement	16
10.	Policy for Joint Tenders	16
11.	Policy for Emergency Purchasing	16
12.	Policy for Negotiations	16
13.	Policy for Credit Cards	17
14.	Policy for Pre-Qualification of Acceptable Bidders	17
Section 5		
Bid and Contract Administration	19	
Section 6		
Other	21	
Schedule “A” Guidelines regarding irregularities in tenders	22	

Section 1

DEFINITIONS

“Acquisition Method” means the process by which goods or services are procured. The acquisition method applied must correspond with the Acquisition Process provided herein.

“Award”, “Awarded”, and “Awarding” mean authorization to proceed with the purchase of goods and services and construction from a chosen supplier.

“Bid” means an offer or submission from a vendor in response to a request for quotation, tender or proposal, which is subject to acceptance or rejection.

“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 Municipality of Powassan.

“Bid Solicitation” means a formal request for bids that may be in the form of a Request for Quotation, Request for Proposal or Request for Tender.

“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, 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 or architectural work, but does not include professional services related to the construction contract unless they are included in the procurement.

“Consulting and Professional Services” include architects, engineers, designers, surveyors, planners, accountants, auditors, lawyers, management, software and financial consultants, brokers, soil consultants, and any other consulting and professional services rendered on behalf of the Municipality. These professionals should possess current member status/accreditation in their appropriate professional body.

“Contract” means a formal legal agreement between two or more parties, usually written, or a purchase order with binding legal and moral implications; usually exchanging goods and /or services for money or other consideration.

“Council” means the Council of the Corporation of the Municipality of Powassan.

“Department” means each division within the scope of the Corporation of the Municipality of Powassan including the office of the Chief Administrative Officer.

“Designate” means the authorized designate or such official as may be appointed to act on behalf of the authorized authority.

“Emergency” means a situation, or the threat of an impending situation, which may affect the environment, the life, safety, health and/or welfare of the general public, or the property of the residents of the Municipality, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level.

“Expanded works” means 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” means moveable property including:

- a) the costs of installing, operations, maintaining or manufacturing such moveable property, and
- b) raw materials, products, equipment and other physical objects of every kind and description whether in solid, liquid, gaseous or electronic form, unless they are procured as part of a construction project.

“Highest Technical Bid” means the bid that would provide the Municipality with the best product or service as measured by the evaluation criteria.

“Holdback” means an amount withheld under the terms of the contract to ensure the complete performance of the contract and to avoid overpayment in relation to progress of work.

“Lowest Acceptable Bid” means the most cost efficient and effective bid and shall be the sum of all costs, including but not limited to, purchase price, all taxes, delivery, installation, warranty, life cycle cost, operating and disposal costs incurred for determining the lowest acceptable bid meeting the specifications.

“Municipality” means the Corporation of the Municipality of Powassan.

“Pre-Qualified Supplier” means a supplier of specific Goods or Services who is listed in Schedule “B” attached to and forming part of this by-law.

“Progress Payment” means a payment made under the terms of a contract after the performance of the part of the contract in respect of which payment is made but before the performance of the whole contract.

“Purchase Order” means a legally binding contract between the Corporation of the Municipality of Powassan and a supplier to supply a specific quantity of goods or services confirming such things as time period, delivery, destination and price in a form acceptable to the Chief Administrative Officer and Department Head.

“Purchasing Policy” means the policy adopted by by-law by council and amended from time to time by by-law amendments by council.

“Quotation” means a request for prices on specific goods and/or services from selected vendors, which is submitted in writing or transmitted by facsimile or email as specified in the Request for Quotation.

“Request for Information” means a process where information is requested from vendors regarding the feasibility and availability of specific goods and/or services in the marketplace to determine if there are enough suppliers to justify a Request for Proposal.

“Request for Proposal” means a formal request for details on the supply of goods or the provision of services or construction, which cannot be fully defined or specified at the time of the request. The suitability of any resulting proposal may be dependant upon non-price factors and which may result in further negotiation between the parties.

“Request for Quotation” means a request in which the Municipality approaches three or more suppliers directly and obtains a written fixed price from at least three of them at which each supplier will provide specific goods, services or construction.

“Request for Tender” means a formal request for sealed bids for the supply of goods, services or construction in response to a publicly advertised request for bids. Used when the Municipality can specify its exact needs and price or qualifications of the supplier. The acceptance of a tender should result in a firm contract.

“Security Deposit” means a deposit of securities by a supplier that the Municipality may convert under defined conditions to complete the supplier’s contractual obligation.

“Services” means all professional, consulting, construction or maintenance services, including the Recurring or Non-Competitive Expenditures set out in Schedule “B”.

“Sole Source” means there is only one known source of supply of particular goods or services.

“Time-Sensitive” means a situation for which the timing to initiate and/or complete the purchase is paramount but the time available to follow normal procedures is insufficient.

“Total Purchase Price” means the total final cost including all related expenses and taxes, and inclusive of any rebates or shared costs by a third party to the agreement.

NOTE: Where dollar limits are specified, costs are to include, but not be limited to, Federal Goods and Services Tax, Provincial Sales Tax, freight, installation, etc.

Section 2

PURCHASING OBJECTIVES

1. Procure the necessary quality and quantity of goods and/or services in an efficient, timely and cost effective manner, while maintaining the controls necessary for a public institution, in accordance with the Purchasing Policies as approved by Council.
2. Encourage the most open, competitive bidding process practicable for the acquisition and disposal of goods and/or services, and the objective and equitable treatment of all vendors.
3. Acquire goods and services in a manner that complies with this policy and appropriate purchasing principles for the public sector, reflecting a high standard of business ethics without favour or discrimination, and which is cost effective and results in the best value for the Municipality.
4. Ensure that Goods and Services acquired by the municipality will comply with the Municipality's requirements and with all standards, codes and regulations prescribed by law, for maximum benefit to and to protect the health and safety of the Municipality, its employees and the public.
5. Ensure that in calling for tenders, proposals or quotations, the Municipality shall incur no obligation to accept any bid, tender, proposal or quotation.
6. Ensure that both purchasing needs assessments and purchasing planning will consider alternatives, timing and supply strategies, and the effective and economical management of goods and services throughout their useful life.

Section 3 Defining the Responsibilities and Prohibitions of Procuring Goods and Services

1. General Responsibilities

The procedures prescribed in this by-law shall be followed to make a contract award or to make a recommendation of a contract award to Council.

2. Administration Responsibilities

The Treasurer and/or CAO/Clerk shall be responsible to make purchases on behalf of the Municipality in accordance to this Purchasing By-Law. They may appoint designated officials to act on their behalf and on behalf of the Municipality to enter into contracts with third parties. The CAO/Clerk may limit the purchasing authority of the designated officials, as he/she deems appropriate. The following are the administration responsibilities:

- To be responsible for the administration of the Corporate Purchasing Policies, Guidelines and Procedures, and will continually review the corporate use of goods and/or services to ensure the Municipality is receiving the best quality, quantity, service, price, etc.
- To ensure that business transactions are conducted ethically and professionally.
- To advise on the practicability of specifications to ensure a maximum number of competitive bids and vendor's ability to supply.
- To ensure that qualified vendors receive requests for Tenders, Proposals, and Quotations.
- To advise and assist in the preparation of agreements when requested.
- To supply copies of the policies and procedures to all staff that have been delegated purchasing authority and training as required ensuring clear understanding of the corporate expectations.
- To maintain records of business transactions as required.

3. Department Head Responsibilities

1. The Department Heads will acquire goods and services for the purpose of their departments and are accountable for achieving the specific objectives of the procurement project.
2. In acquiring goods and services, the Department Head shall:
 - a) Ensure that approved budgetary allowances are not exceeded without the approval, obtained in advance wherever possible, of the CAO/Clerk or the Municipal Council;
 - b) Have the authority to award contracts in the circumstances specified in this by-law provided that the delegated power is exercised within the limits prescribed in this by-law, and the requirements of this by-law are met.
 - c) Use of no other forms of procurement shall be permitted, unless prior approval is obtained by Council resolution.

4. Requirement for approved funds:

- a) The exercise of authority to award a contract is subject to the identification and availability of sufficient funds in appropriate accounts within Council approved Budget.
- b) Where goods and services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a contract is subject to:
 - (i) the identification and availability of sufficient funds in appropriate accounts for the current year within Council approved budget.
 - (ii) the requirement for the goods or services will continue to exist in subsequent years and, in the opinion of the Department Head, the required funding can reasonably be expected to be made available.
- c) All purchase request for contracts for which sufficient funds are not available and identified shall be rejected unless the deficiency is minimal and alternative funding has been identified.

5. Restrictions:

The following activities are prohibited, unless specifically approved by Council:

- a) No Contract for Goods, Services or Construction may be divided into two or more parts to avoid the application of the provisions of this By-Law.
- b) No Contract for Services shall be awarded where the services would result in the establishment of an employee-employer relationship.
- c) No employee shall purchase any Goods, Services or Construction, except in accordance with this By-Law.
- d) The purchase by the Municipality from any member of Council, appointed officers, employees of the Municipality or their immediate families or from any other source that would result in a conflict of interest (i.e. monetary gain), unless such interest has been declared pursuant to the Municipal Conflict of Interest Act.
- e) The purchase by the Municipality of any goods or services for personal use by any member of Council, appointed officers, employees of the Municipality or their immediate families.
- f) The acceptance of gifts, benefits, money, discounts, favours or other assistance by elected officials, officers and employees, and their families. The image and integrity of the employees and Council must be preserved at all times.

6. Total Project Cost:

Where this by-law prescribes financial limits on contracts that may be awarded on the authority of a Department Head, or provides for financial limits on contracts required to be reported to Council, for the purpose of determining whether a contract falls within these prescribed limits, the contract amount shall be the aggregate or sum of:

- all costs to be paid to the supplier under the contract; and
- all taxes, and
- less any rebates, and
- the extra cost, taxes, etc. resulting from any amendment after the initial contract has been made.

7. Prescribed Council Approval and Emergency Authority:

Despite any other provisions of this By-Law, the following Contracts are subject to Council approval:

- a) any Contract requiring approval from the Ontario Municipal Board;
- b) any Contract where the Total Acquisition Cost is greater than the Council Approved Budget;
- c) in any case where the applicable Procurement Procedures set out in Section 4 have not been followed; the Department Head considers they

cannot reasonably be followed; or a proposed procurement is from a Sole Source;

- d) any Contract where a Good, Service or Construction has a total Acquisition Cost which exceeds \$10,000.00;
- e) in the event of an “Emergency” where Council is unable to meet immediately, the Mayor (or in the Mayor’s absence, the Deputy Mayor), in consultation with the CAO-Clerk and/or Department Head, may authorize a total Acquisition Cost to deal with the Emergency, up to a maximum of \$10,000.00. Council shall be advised of any Emergency Procurement at its next meeting;
- f) any procurement from a Sole Source.

8. Cancellation of Bid Solicitation:

A Department Head, with the concurrence of Council, may cancel a bid solicitation at any time up to contract award, and shall ensure that the confidentiality of any bid submitted is maintained in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, as amended, Section 10.

Section 4

Procurement Procedures

1. General

- a) Except as listed in (b) immediately below, no procurement of any good, service or construction shall be made unless it is made by a method or procedure authorize in this part.
- b) The purchasing methods and procedures described in this Section do not apply to the following Goods and Services and must be within a pre-approved budget estimate:
 - i) Employers general expenses which may include the following, but are not limited to:
 - Salaries, wages and benefits;
 - Payroll deductions remittances;
 - Licenses;
 - Banking Fees;
 - Debenture Payments;
 - Grants and Donations;
 - Petty Cash replenishment;
 - Tax remittances;
 - Debt and bank charges;
 - Utilities;
 - Insurance;
 - On going roads maintenance;
 - Office supplies and maintenance;
 - Office equipment;
 - Postage;
 - Equipment maintenance.
 - ii) Training and Education expenses which may include the following, but are not limited to: Memberships; Registration fees for conferences, conventions, courses and seminars.
 - iii) Refundable Employee/councillor Expenses such as meal allowances and travel.
 - iv) Professional Services
 - v) Emergency procurements authorized under Section 3, 6 (e) of this by-law.
 - vi) Any procurement by any other method expressly authorized by Council in a written resolution or by-law.
 - vii) Committee/Board expenses.

2. Policy for Specifications

The Department whose budget provides for the acquisition of goods and/or services shall be responsible for the preparation of the specifications for a quotation, tender or proposal call. The Clerk and/or Treasury Departments shall have the authority to review and recommend improvements to the specifications when deemed necessary. Changes to specifications shall be made with the cooperation of the Department concerned.

3. Policy for Approval Authority

Anyone given Acquisition authority under this policy is accountable and responsible to ensure that proper budget exists, purchases do not violate any municipal, legal or statutory policy, and they have met the audit requirements of the Municipality. Those responsible for requisitioning and purchasing goods and/or services will be held accountable for their decisions.

4. Policy for Petty Cash Purchases of \$200 or less

- 1) The Treasurer shall have authority to establish a Petty Cash fund in such an amount to meet the requirements of the municipality for the acquisition of goods, services or construction having a value of \$200.00 or less.
- 2) Purchases shall be made from the competitive marketplace wherever possible.
- 3) All petty cash disbursements shall be evidenced by vouchers or receipts detailing the item(s) and the Total Acquisition Cost.

5. Policy for Low Dollar Value Purchase (up to \$1000.00)

The purpose of this policy is to provide guidelines for Low Dollar Purchases (up to \$1000.00) in accordance with the Purchasing Policies with intent to;

1. To obtain the highest quality of goods and/or services at the lowest possible price, available at the right time and in the right quantities.
2. To acquire goods and/or services required from qualified suppliers in a manner which promotes fair and equitable relationships with all suppliers;
3. Purchase within the limits of approved budgets;
4. Utilize all division and corporate contacts. Chief Administrative Officer/Clerk and/or the Treasurer or designates are authorized to approve

purchases up to \$1,000. Treasurer or designate may require a three price comparison for purchases over \$100.00.

Department Managers are authorized to approve purchases up to \$1,000. The Department managers may delegate approval authority to their staff at the levels they deem appropriate.

The Department Managers may appoint staff who will have the delegated authority to purchase goods and /or services directly up to \$1000.00 in accordance with the Procedures for Low Dollar Value Purchases. It is the responsibility of the users to adhere to the Purchasing Policies.

6. Policy for Request for Quotations (\$1000 to \$10000)

For acquisition of goods and/or services with a total purchase price greater than \$1000 but not exceeding a total purchase price of \$10,000

- a) A minimum of three quotations shall be obtained by any method of written communication and the results will be analyzed and tabulated to determine the award. The quote shall be awarded based on the “lowest acceptable bid” as defined in Section 1 of this By-Law.
- b) Quotes may be requested from those suppliers who appear best qualified to meet the provisions of the quotation.
- c) The Department Head will obtain the quotes, review the quotes to ensure compliance with the related procedures and established terms or conditions;
- d) Final acceptance of Quotations must be approved by the CAO/Clerk or Treasurer or the Department Head when the item is within the approved budget limits.

7. Policy for Requests for Proposal

- a) A request for Proposal shall be used for procurements exceeding \$10,000.00
Where one or more of the criteria for issuing a Request for Tender cannot be met, such as:
 - (i) owing to the nature of the requirement, suppliers are invited to propose a solution to a problem, requirement or objective and the selection of the supplier is based on the effectiveness of the proposed solution rather than on price alone.
 - (ii) it is expected that negotiation with one or more bidders may be required with respect to any aspect of the requirement.

- b) A Request for Proposal shall be issued by:
 - (i) advertising in a publication with large commercial circulation and/or
 - (ii) an advertisement, at least once, in the local newspaper.
- c) The Department Head with a Committee of Council will review all proposals against the established criteria and reach consensus on the final rating results;
- d) A report will be presented to Council recommending award of contract to the supplier meeting all mandatory requirements and providing best value as stipulated in the Request for Proposal;
- e) Final acceptance of Proposals must be by resolution of Council.

8. Policy for Request for Tender

- a) A Request for Tender shall be used for procurements exceeding \$10,000.00 where all of the following criteria apply:
 - (i) two or more sources are considered capable of supplying the requirement;
 - (ii) the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria;
 - (iii) the market conditions are such that tenders can be submitted on a common pricing basis;
 - (iv) it is intended to accept the lowest priced responsive tender without negotiations;
 - (v) sufficient funds are available and identified in appropriate accounts within Council Approved budgets; except in an emergency situation;
 - (vi) the provisions of the By-Law are complied with.
- b) A tender has to be advertised at least once in a local newspaper, or you may require invitation tenders. All tenders are to be received in sealed envelopes within the specified time and opened in public at the advertised time in the presence of the applicable Department Head, the Treasurer, and/or the CAO/Clerk and one (1) member of council or their designate.
- c) The Department Head with the CAO/Clerk or Treasurer shall review all tenders against the established criteria and reach consensus on the final rating results.

- d) A report to Council recommending award of tender or proposal is required for all purchases over \$10,000.
- e) Final acceptance of Tenders must be made by resolution of Council.

9. Policy for in House Procurement

Prior to initiating and before completing a procurement, a Department Head shall consider whether or not it is possible to obtain the required good, service or construction “in house” using its own employees; and whether or not such in house procurement would provide Best Value to the Municipality.

10. Policy for Joint Tenders

Council may authorize a Department Head to participate in a joint tendering process along with other municipalities. The procurement procedures should be consistent with municipal policy. Final acceptance of Proposals must be by resolution of Council.

11. Policy for Emergency Purchasing

The purpose of this policy is to set out guidelines for acquiring goods and/or services when an emergency arises.

When the Mayor or designate has declared an Emergency, goods and/or services shall be acquired by the most expedient and economical means. The Treasurer will provide cooperative assistance when requested to expedite any purchasing documents necessary to deal with the Emergency. Any purchase acquisition document issued under such conditions shall be justified and approved by the Mayor and C.E.M.C. and/or CAO/Clerk or Department Head of the municipality. For amounts exceeding \$10,000, the CAO/Clerk shall issue an information report to the Council at its next scheduled meeting.

Subsequent to the resolution of the Emergency, the C.E.M.C. shall complete an Emergency Report and forward it to the Council, CAO/Clerk and Treasurer .

12. Policy for Negotiations

The purpose of this policy is to set out guidelines for acquiring goods and/or services through the negotiation process. Occasionally when conditions dictate, negotiations for goods or services may be conducted. This process may be adopted when any of the following conditions apply:

- a. goods or services are judged to be in short supply due to market conditions;

- b. where there is only one known source for the goods or services (sole source);
- c. where 2 or more identical bids have been received;
- d. where the lowest bid received meeting specifications is excessive in total cost or substantially exceeds the estimated costs;
- e. when all bids received fail to meet the specifications or tender terms & conditions and it is impractical to recall tenders or quotations;
- f. when a single source is being recommended because it is more cost effective or beneficial for the Municipality.
- g. for the extension of a contract where extension provisions were built into them as part of their original terms of reference, provided the value of the amendment plus the value of any previous amendments to the same contract does not exceed the value of the original contract by the lesser of \$10,000 or 10% of the original contract value;
- h. an emergency or time-sensitive situation as defined in Section 1 of this By-Law, or
- i. for expanded or coordinated works as defined in Section 1 of this By-Law.

13. Policy for Credit Cards

The purpose of this policy is to set out guidelines for acquiring goods and/or services through the use of Municipal Credit Cards. The Chief Administrative Officer or Department Heads may appoint employees who will be authorized to use a Credit Card to procure goods and/or services following sound business practices.

- 1. All Credit Cards issued will have a predetermined “Credit Limit” as determined and authorized by the Treasurer in conjunction with the CAO/Clerk. All Credit Cards will be blocked from obtaining cash advances.
- 2. The Program will be administered and audited by the Treasurer or designate, who will maintain a master file of all Credit Cards and card limits.
- 4. The Credit Card shall not be used for personal purchases of any nature.

14. Policy for Pre-Qualification of Acceptable Bidders

- 1. The purpose of this policy is to set out guidelines for pre-qualification to select a number of bidders prior to the competitive sealed bid process. The purpose of pre-qualification is to ensure that each bidder can demonstrate they have the ability to provide the necessary expertise and resources to satisfactorily complete the work required. Pre-qualification would only be considered in the following circumstances:

- 1.1 The work is considered “high risk” with respect to Regulations governed under the “Occupational Health and Safety Act”;
 - 1.2 The work is such that contract administration costs (work inspection, follow-up, extra fee negotiations) could result in a substantial cost the Municipality if the work is not satisfactorily performed the first time;
 - 1.3 The goods or equipment to be purchased must meet national safety standards, or if no standard has been established, has demonstrated an acceptable level of performance; or
 - 1.4 The work involves complex, multi-disciplinary activities; specialized expertise, equipment, materials, or financial requirements.
2. This is a two-step process, where either a competitive sealed bid or a proposal call will follow. Pre-qualification is the first step and would set out criteria requiring bidders to provide information such as, but not limited to:
 - 2.1 Experience on similar work;
 - 2.2 References provided from other customers for similar work;
 - 2.3 Verification of applicable licenses and certificates;
 - 2.4 Health and safety policies and staff training; and
 - 2.5 Financial capability.
 3. Appropriate staff will evaluate and rank the submissions and then recommend a short list of acceptable bidders to participate in the subsequent competitive sealed bid.
 4. If a pre-qualification is the first step to a proposal process, the approached for the first step can also be called a “Request for Information”. A Request for Information can be used to build supplier interest and to see if there are enough suppliers to justify a full Request for Proposal competition. The Request for Information would request detailed information such as, but not limited to, company background, who the interested parties are, what they can offer and what they can do for the Municipality.

Section 5 Bid and Contract Administration

1. Submission of Bids

Sealed Bids, clearly marked as to contents, shall be accepted. Bids by FAX or in electronic form (email) will not be accepted.

2. No Acceptable Bid or Equal Bids Received

- a) Where bids are received in response to a bid solicitation but exceed budget, are not responsive to the requirements or do not represent fair market value, a revised solicitation shall be issued in an effort to obtain an acceptable bid unless Subsection (b) applies.
- b) The Council may waive the need for a revised bid solicitation and instruct the CAO/Clerk to enter into negotiations with the lowest compliant bidder.
- c) The method of negotiation shall be those accepted as ethical practices.
- d) If two equal bids are received, a means of breaking the tie consistent with the provisions of the solicitation shall be employed.
- e) Factors to be considered in breaking the tie include:
 - i) prompt payment discount
 - ii) when delivery is an important factor, the bidder offering the best delivery date may be given preference,
 - iii) a bidder in a position to offer better after sales service, with a good record in this regard, may be given preference,
 - iv) a bidder with an overall satisfactory performance record may be given preference over a bidder known to have an unsatisfactory performance record.

3. Guarantees of Contract Execution and Performance

- a) The Council may require that a bid be accompanied by a Bid Bond or other similar security to guarantee entry into a contract.
- b) In addition to the security referred to in Subsection (a) above, the successful supplier may be required to provide:
 - i) a Performance Bond to guarantee the faithful performance of the contract, and/or
 - ii) a Payment Bond to guarantee the payment for labour and materials to be supplied in connection with the contract.
- c) The Council and Department Head shall select the appropriate means to guarantee execution and performance of the contract. Means may include one or more of, but not limited to, financial bonds or other forms of security deposits, provisions for liquidated damages, progress payments, and holdbacks.
- d) Prior to commencement of work and where deemed appropriate, evidence of Liability Insurance Coverage satisfactory to the Department Head must be obtained, ensuring indemnification of the Municipality of Powassan from any and all claims, demands, losses, costs or damages resulting from the performance of a supplier's obligations under the contract.

- e) Prior to final payment to a supplier, a Certificate of Clearance from the Workplace Safety and Insurance Board shall be obtained, when appropriate, ensuring all premiums or levies have been paid to the Board to date.
- f) The Department Head shall ensure that the guarantee means selected will:
 - i) not be excessive but sufficient to cover financial risks to the Municipality.
 - ii) provide flexibility in applying leverage on a supplier so that the penalty is proportional to the deficiencies, and
 - iii) comply with provincial statutes and regulations.
- g) Financial bonds for contract performance shall only be required where the Municipality will be exposed to costs if the contractor does not complete the requirements of the contract.
- h) If the risk to the Municipality is not adequately limited by the progress payment provisions of the contract, a minimum payment holdback of 10% shall be mandatory on all contracts exceeding \$30,000.00.

4. Irregularities Contained in Bids

- a) The process for administering irregularities contained in bids pertaining to all contracts shall be as set out in Schedule “A”.
- b) For an irregularity listed in the first column of Schedule “A”, the response applicable to it is set out opposite to it in the second column.

5. Contractual Agreement

A formal agreement is to be used when the resulting contract is complex and will contain terms and conditions.

6. Contract Amendments and Revisions

- a) No amendment or revision to a contract shall be made unless the amendment is in the best interest of the Municipality.
- b) No amendment that increases the Total Acquisition Cost of a contract shall be agreed to without a corresponding change in requirements or scope of work.
- c) Amendments and revisions to contracts shall be treated as an entirely new contract for purposes of compliance with
 - * the identification and availability of sufficient funds in appropriate accounts within the Council approved budget; and
 - * whether Council approval is required pursuant to 4-6 of this by-law.

7. Execution and Custody of Documents

The CAO/Clerk or Treasurer is authorized to execute all agreements in the name of the Municipality and shall be responsible for the safeguarding of original purchasing and contract documentation for the contracting of goods, services and construction for which the award is made.

8. Term of Council

Where a contract may extend beyond the term of Council, the contract shall contain provisions to minimize the financial liability of the Municipality should the subsequent Council not approve such sufficient funds to complete the contract and the contract must be terminated by the Municipality.

Section 6- Other

1. Freedom of Information

Disclosure of information received that is relevant to the issue of a bid or tender process are subject to the provisions of the Municipal Freedom of Information and Protection of Privacy Act, as amended.

2. By-Law Review

This by-law shall be reviewed by Council as soon as possible following a municipal election, to evaluate effectiveness of the procurement process and any other prescribed matter.

SCHEDULE “A” Guidelines regarding irregularities in tenders

NUMBER	IRREGULARITY	RESPONSE
1	Late bids	Automatic rejection and not read publicly
2	Unsealed envelopes	Automatic rejection
3	Insufficient Financial Security (No deposit or bid bond or agreement to bond or insufficient deposit or bid bond or agreement to bond)	Automatic rejection unless, in the opinion of the Council and Department Head, the insufficiency in the financial security is trivial or insignificant
4	Bids not completed in non-erasable medium and signed in ink	Automatic rejection.
5	Incomplete Bids (Part bids-all items not bid)	Automatic rejection unless, in the opinion of the Council and Department Head, the incomplete nature is trivial or insignificant.
6	Qualified Bids (Bids qualified or restricted by an attached statement)	Automatic rejection unless, in the opinion of the Council and Department Head, the qualification or restriction is trivial or not significant.
7	Bids received on documents other than those provided by the Municipality of Powassan	Automatic rejection unless, in the opinion of the Council and Department Head, the matter is trivial or insignificant.
8	Bids containing minor clerical errors	48 hours to correct and initial errors
9	Execution of Agreement to Bond (Performance Security). Bonding company corporate seal or signature missing from agreement to bond.	Automatic rejection.
10	Execution of Bid Bonds (Financial Security): a) Corporate seal or signature of the bidder, or both, is missing b) Corporate seal or signature of bonding company is missing	48 hours to correct Automatic rejection.
11	Other Bid Security-Uncertified Cheques	Automatic rejection.
12	Documents –Execution a) Corporate seal and/or signature missing	48 hours to correct

13	<p>Erasures, overwriting or strike-outs which are not initialed:</p> <p>a) Uninitialled changes to the tender documents which are minor (example-the tenderer's address is amended by over writing but not initialed).</p> <p>b) Units prices in the Schedule of Prices have been changed but not initialed and the contract totals are consistant</p>	48 hours to initial
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SCHEDULE "B" LIST OF PRE-QUALIFIED SUPPLIERS