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## POL.F.20.139

### Procurement Policy

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**Policy Statement**

Purchase of Goods, Services and/or Construction shall be made on a competitive basis, in keeping with accepted public purchasing practices and in accordance with the applicable federal, provincial and municipal laws.

No purchasing process for goods, services and/or construction shall be intentionally structured to avoid any provisions of the Procurement Policy. All purchases of goods, services and/or construction for the City shall be subject to the provisions of the policy. Prices and authority levels as stated in this policy are intended to be the total cost including taxes and freight.

### **Purpose, Goals and Objectives**

The purpose of this policy is to provide a clear understanding of the Corporation of the City of Brockville's procurement processes and to ensure that all Goods, Services and/or Construction are acquired in a competitive, fair and open manner, and that the process is efficient and accountable.

The goals and objectives of this policy are, to the greatest extent possible:

- to define authority and responsibility;
- to encourage open competition and ensure equality among bidders/suppliers;
- to make contractors accountable for their performance to both the City and the public;
- to provide the highest level of government service at the least possible cost;
- to ensure service and product delivery, quality, efficiency and effectiveness;
- to obtain the best value for the City when procuring goods, services and/or construction;
- to promote sustainable, environmental and ethical procurement practices which encompass social, ethical and environmental consideration when acquiring goods, services and/or construction;
- to promote, where applicable, the requirements of O.Reg 191/11: Integrated Accessibility Standards under Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11 (AODA), in procurement activities of the City as well as any requirements contained in other legislation (either international, federal or provincial) which may impact the procurement activities of the City.

### **Application**

That authorized employees shall act for the Corporation of the City of Brockville, for the purchase of all Goods, Services and/or Construction and shall be responsible for providing all necessary advice and services required for such purchases in accordance with the method of procurement.

This policy shall apply to the purchase of all Goods, Services and/or Construction made on behalf of the City and by any of the corporation's legally constituted agencies, boards, commissions, and committees.

No purchase of Goods, Services and/or Construction shall be authorized unless it is in compliance with this policy.

### **Definitions**

As used in this policy, the following terms shall have the meanings indicated.

Authority or Authorized - means the legal right to conduct the tasks outlined in this policy as directed by Council and delegated through the City Manager to the Director of Finance. Authorized Purchases are those that have prior approval of Council either through resolution or through the approved Departmental budget.

Award - means the acceptance of a Bid or Proposal by the City; the presentation of a Purchase Order, Credit Cards and/or upon execution of a Contract between the City and a Bidder or Proponent.

Best Interest - means the discretion granted to the City Manager to take the most advantageous action on behalf of the City. Meaning that the authority to act would not conflict with any regulatory or legal principle or implied duties owed to each Bidder by the City. See also "Contract".

Bid - means an offer or submission from a supplier in response to a bid invitation which may be in the form of an oral or written quotation, a short form or public tender or a request for proposal.

Bid Call Document – means the invitation document in the form of Request for Quotation, Request for Tender, Request for Proposal

City – means the:

- Corporation of the City of Brockville

- Agencies, Commissions, Boards and Committees of the Corporation of the City of Brockville such as the Police Services Board, Library Board, Cemetery Board, Committee of Adjustment, Airport Commission, Heritage Brockville and the Downtown Business Improvement Association (DBIA).
- Any other Board, Agency, Commission, and Committees that the Corporation of the City of Brockville may add from time to time.
- Where the City is providing financial support through any funding mechanism (debt, grants, donations...) and/or assets being purchased, assembled or constructed that will become the responsibility of the City.

City Manager - means the appointed official who directs the administration of the City of Brockville.

City Representative - means an individual authorized by City Manager or Council to act on behalf of the City including but not limited to employees, Committee members, and appointees.

Conflict of Interest - means any action, decision or recommendation by a City Representative where the effect of which could be to the private pecuniary benefit or detriment of the Representative or the Representative's relatives.

Construction - means the process of utilizing labour to build, alter, repair, improve or demolish any structure, building or improvement and generally does not apply to routine maintenance, repair or operations of existing Real Property.

Consulting - means a person or entity that under an agreement, other than an employment agreement, provides expert or strategic advice and related Services for consideration and decision-making. Whether a Service in question is deemed Consulting Services should be determined by the nature of the Service being procured and not by the designated professional being represented. Services provided by a licensed professional may constitute Consulting Services. Where the City is seeking to obtain expertise or strategic advice for consideration and decision-making, notwithstanding the designated professional providing the Service, the City is seeking to obtain Consulting Services.

Contract - means any formal legal agreement between two or more parties for Good(s) and/or Service(s), usually in writing. Also means a Purchase Order and/or the agreement in writing between the City and a Contractor in

respect of the Good(s), Service(s) and/or Construction to be provided under a Bid Call Document.

Council or City Council - means the Council of the Corporation of the City of Brockville.

Department - means a Department of the City.

Department Head - means the head of a department within the City as per the City of Brockville organizational chart. Any committee, commission, board or agency reports to the applicable City Department Head with exception to the Police Chief and the Library Chief Executive Officer who report to their applicable board and are considered Department Heads.

Emergency (Non-Declared) - means an event or circumstance where the Procurement Coordinator and either the City Manager or Department Head or Manager, in accordance with Appendix A: Authority – Non-Declared Emergency has determined that the immediate Purchase of Good(s) or Service(s) or the entering into of a Construction Contract is essential or necessary to prevent or alleviate serious delay, a threat to public health, safety or welfare, the disruption of essential services or damage to public property or any other expenditure that is necessary to respond to any non-declared Emergency of the City.

Emergency (City-Declared) - means an event or circumstance where the Mayor of the City declares that an Emergency exists in the City or in any part thereof and may take such action and make such orders as he or she considers necessary and are not contrary to law to implement the Emergency Plan of the City and to protect property and the health, safety and welfare of the inhabitants of the Emergency Area or as required under EMCPA (*Emergency Management and Civil Protection Act*).

Goods - shall include supplies, materials or equipment of every kind.

Litigation - means any formal dispute between the City and any other party, including third party and cross claims, where a legal proceeding has been commenced for an injunction, a mandatory order, a declaration or the recovery of money or arbitration proceeding.

Lobbying – means any attempt to influence any determination by a public official, staff or entity working with a public official, related to a governmental procurement.

Personal Property - Refers to tangible items ranging from common products, such as office equipment and furniture, to specialized apparatuses, including scientific devices and heavy machinery.

Probation - means the action that results when a Contractor receives a rating of “not satisfactory” in any category, on a Contractor Performance Evaluation Form, as per the City’s Contractor Performance Policy. The standard length of the Probation period is two (2) years.

Procurement - means a) purchasing, renting, leasing or otherwise acquiring any Good(s), Service(s) and/or Construction and includes all functions that pertain to the acquisition, including the description of requirements, preparation, solicitation, selection and award of contract and all phases of contract administration; and b) the combined functions of purchasing, inventory control, traffic, and transportation, receiving, inspection, storekeeping, salvage and disposal operations.

Procurement Review Panel (PRP) - means a component of the Request for Proposal (RFP) process, whereby a committee is established to conduct Proposal evaluations, interviews and negotiations during Proposal evaluation for Goods, Services and/or Construction. It is usually comprised of three (3) or more persons from the functional area(s) identified in the scope of work and chaired by the Director of Finance or designate. The number of evaluators may vary from RFP process to RFP process. The panel of staff and other party(s) that are deemed appropriate to review and make decisions that pertain to but are not limited to Bid Irregularities, Bid disputes, Contractor performance and Contractor Integrity.

Proponent - means the party who submits a proposal in response to a bid call, RFP or RFI.

Procurement Coordinator - means the City Treasurer or his or her designate.

Real Property - means land and its permanently affixed buildings or structures; any property which is not Personal Property.

**Responsible Bidder** - means a Bidder whose reputation, past performance, business and financial capabilities are such that the Bidder would be judged by the City to be capable of satisfying the City's needs for a specific contract; a Bidder, as the context requires, that is fully capable to meet all the requirements of the solicitation or other process and subsequent contract and has satisfactory past performance, including a satisfactory City's Contractor Performance Evaluation Form (where applicable) to perform, as contractually required, and is able to fully document the ability to provide good faith performance.

**Responsive Bidder** - means a Bidder that has complied in all material respects with the requirements of the Bid Call Document.

**Services** - may include, but are not limited to, janitorial and cleaning services, consultant services, legal services, medical services, insurance, and the rental, repair or maintenance of equipment, machinery or other personal property.

**Single Source** – means a Procurement process whereby Purchases of Good(s), Service(s) and/or Construction are directed to one source because of standardization, integration into existing infrastructure, warranty, or other factors, even though other competitive sources may be available. Examples could be but not limited to water, wastewater infrastructure parts, vehicle and equipment parts and accessories, computer networking equipment, and software.

**Sole Sourcing** - means the purchasing of a good or service that is unique to a particular supplier and cannot be obtained from another source.

**Solicitation** - means the City's Bid Call Document and includes but is not limited to, all standard procurement methods and alternative procurement methods, as described in this policy See also "Bid"

**Spending Authority** - means the Authority assigned to City Representatives by the City Manager, Director of Finance or Department Head to incur expenditures, including advance and progress payments on behalf of the City.

**Suspension** - means the action that results when a Contractor receives a rating of "unacceptable" in any category, on a Contractor Performance Evaluation Form, as per the City's Contractor Performance Policy. Also



applies to a Contractor that has received a “not satisfactory” rating in two (2) or more categories on a Final Performance Evaluation or a “not satisfactory” rating in at least one category on two (2) consecutive Final Performance Evaluations.

Tie Bid - means two (2) or more Bids from Responsive and Responsible Bidders that are equal in all respects after evaluation, including price, for Good(s), Service(s) and/or Construction or Sale of Real or Personal Property.

Trade and Cooperation Agreement between Ontario and Quebec - means the trade agreement that promotes trade and economic cooperation between the two provinces.

## **Procedures**

### **1. Authorities and Responsibilities**

Procurement activities shall be within the scope of the City’s approved annual budget and only be initiated and executed by persons authorized to acquire and purchase Goods, Services and/or Construction within the authorized purchasing limits as set out in Appendix A – Purchasing Authority. This policy does not apply to items listed in Appendix B – Goods and Services “Exempt” from the Procurement Policy.

#### **1.1 Responsibilities Staff, Council, Committees of Council**

This policy shall apply to all Departments and all City Representatives including Committees of Council.

Procurement activities shall be subject to all applicable City policies and by-laws, any specific provisions of the Municipal Act, and all other applicable federal and provincial legislation.

Failure to adhere to the requirements outlined in this policy may lead to disciplinary action up to and including termination of employment, or dismissal from the Board, Agency, Commission or Committee at the discretion of the City Manager.

#### **1.2 City Manager**

The City Manager has the Authority to:

- instruct against Awarding a Contract and may provide additional restrictions concerning procurement where such action is considered necessary and in the Best Interest of the City;
- delegate spending authority limits to staff in compliance with this policy;
- award a Contract to the next lowest Responsive and Responsible Bidder or the next highest evaluated Responsive and Responsible Proponent without returning to Council for approval, where an Award has been approved by Council and the selected bidder has failed to enter into a Contract, provided the requirements remain unchanged and the new Contract is within budget; the applicable Department Head shall prepare a report to Council for information purposes.

The following Contracts require the approval of the City Manager prior to Award:

- where a Bid in response to a Solicitation contains an irregularity not resolved by the Procurement Review Panel; and
- where there has been a bid dispute submitted that has not been resolved by the Procurement Review Panel in accordance with the City's by-laws, procurement policies and procedures or in accordance with any applicable trade agreements having jurisdiction.

### 1.3 Director of Finance / City Treasurer

The Procurement Coordinator is responsible for the facilitation of all aspects of the Procurement Policy by:

- a. providing Procurement advice and services to each Department, the City Manager, Council, Committees of Council and any City Representatives for the purposes of fulfilling the Procurement needs of the City;
- b. monitoring compliance with this policy;
- c. notifying the Department Heads, in advance if possible, of non-compliance;
- d. informing Council, by way of the City Manager, that non-compliance with this policy has occurred;
- e. all aspects for the Solicitation process and ensuring compliance to the terms and conditions of the Bid Call Document;

- f. ensuring City Representatives comply with this policy and reporting non-compliance, in writing, to the appropriate Department Head and the City Manager;
- g. the standardization of all Goods and Services where appropriate and possible, in collaboration with the Department(s);
- h. the disposal of Real Property which has been declared surplus by Council as outlined in the applicable City Policy.

#### 1.4 City Staff

Department Heads and staff are responsible for:

- a. ensuring that department operating and capital expenditures are in compliance with the City's Budgetary Control Policy;
- b. ensuring committees, commissions, boards and agencies report to the applicable Department Head that will ensure they are in compliance with the City's Budgetary Control Policy;
- c. ensuring City staff comply with this policy and report non-compliance, in writing, to the appropriate Department Head and the City Manager;
- d. ensuring that the responsibility and authority for all Department Procurement activity remain within the prescribed limits of this policy;
- e. delegating Spending Authority limits to staff in compliance with this policy and all applicable policies.

#### 2. Methods of Procurement and Thresholds

The Department Head will be able to select the most appropriate process for the requirement, taking into account the discussions at the planning phase. The following threshold will guide the method of procurement used to purchase Goods, Services and/or Construction.

| Estimated Thresholds                       | Method                        |
|--|-------------------------------|
| <b>Goods, Services and/or Construction</b> |                               |
| Up to \$75                                 | Petty Cash or Credit card     |
| Up to \$5,000                              | Purchase Order or Credit Card |
| \$5,000 to \$10,000                        | Informal quotes / RFP         |
| \$10,000 to \$50,000                       | RFP or RFT                    |
| \$50,000 and over                          | RFP or RFT                    |

The chart below identifies the most popular procurement methods. There are also other processes that may be used in conjunction with the primary methods.

| Procurement Method                       | Purpose   |
|--|---|
| Request for Information (RFI)            | An RFI is a request which is used as a general market research tool to determine what good(s) and service(s) are available which will meet business or operational requirements and acquisition strategies and/or may occasionally request project estimate costs for the purpose of developing a Solicitation and/or budget.   |
| Market Sounding                          | A market sounding takes advantage of industry intelligence to help design and decide on a best course of action, including the possibility of not proceeding with the project. The information received by the market sounding participants provides guidance to the City and is recognized as suggestive only.   |
| Request for Expression of Interest (EOI) | An EOI is a document issued during the very early stage of the procurement planning process to provide potential bidders with an avenue to register their interest in being involved in a particular project or performing a particular job. May be used as a marketing tool for future opportunities.  |
| Request for Pre-Qualification (RFPQ)     | An RFPQ may be conducted for any good(s), service(s) and/or construction for the purpose of establishing a select number of Responsible pre-qualified Bidders that may Bid on the subsequent procurement process by the City  |
| Request for Quotation (RFQ)              | An RFQ by the City seeking submissions from potential vendors to obtain Good(s), Service(s) and/or Construction whenever the requirements can be precisely defined. The expectation is that the lowest Bid meeting the requirements specified in the RFQ would be accepted.   |
| Request for Tender (RFT)                 | <p>An RFT shall be conducted for the Procurement for good(s), service(s) and/or construction, where all of the following criteria apply:</p> <ul style="list-style-type: none"> <li>a. two (2) or more sources are considered capable of supplying the good(s), service(s) and/or construction;</li> <li>b. the specifications for good(s), service(s) and/or construction can be adequately defined; and</li> <li>c. it is intended that the lowest cost Responsive Bid from a Responsible Bidder(s) shall be accepted.</li> </ul> |

|                                   |  |
|-----------------------------------|--|
|                                   | <p>In the case of a pre-qualified Solicitation, only the selected pre-qualified bidders shall be eligible to submit a Bid.</p>   |
| <p>Request for Proposal (RFP)</p> | <p>RFP when the expertise for developing proper specifications and criteria lies in the hands of the suppliers or when additional information is required and it is not practical to call tenders the Department Head may seek proposals from suppliers.</p> <p>This method of acquisition for good(s), service(s) and/or construction can be used for any dollar value, when the requirements cannot be definitely specified. An RFP may be conducted for the procurement for good(s), service(s) and/or construction where any of the following criteria apply:</p> <ul style="list-style-type: none"> <li>a. the selection of the Proponent depends more upon the effectiveness of the proposed solution, than on the price alone;</li> <li>b. it is expected that negotiation with one or more Proponents may be required with respect to any aspect of the Contract;</li> <li>c. the precise good(s), service(s) and/or construction, or the specifications are not known or are not definable and it is expected that the Proponent will further define them; or</li> <li>d. the services required are consulting or professional services or more sources are considered capable of supplying the good(s), service(s) and/or construction;</li> </ul> |
| <p>Blanket Order Contract</p>     | <p>Blanket Order Contract for the purchase of goods and/or services which will be required frequently and repetitively. The quantity of the goods should be estimated based upon previous usage when requesting the supplier to establish a set price. The City may establish and maintain a blanket order for these frequently used goods and services once the source and price has been predetermined with selected suppliers.</p>  |
| <p>Multi-Step Bid Call</p>        | <p>Bidding procedure consisting of two (2) steps:</p> <p>Step 1: consists of a request for a technical Bid, evaluations and discussion without pricing requirements and the selection of Responsive and Responsible Bidder(s) whose requirements are considered most acceptable; and</p>   |

|                           |  |
|---------------------------|--|
|                           | <p>Step 2: consists of reviewing sealed Bid prices from only those bidder(s) whose technical requirements have been rated most acceptable in Step 1.</p> <p>In the case of a pre-qualified Bid, only the selected pre-qualified respondents shall be invited to submit a Bid.</p>  |
| <p>Single/Sole Source</p> | <p>In circumstances where the sources of supply are restricted to the extent that there is not effective price competition or consideration of substitutes is precluded due to any of the following:</p> <ul style="list-style-type: none"> <li>a. good(s), based on proprietary technology;</li> <li>b. for reasons of standardization, warranty, function or service such as technical qualifications;</li> <li>c. where compatibility with an existing product, equipment, facility or service is a paramount consideration;</li> <li>d. where a good is purchased for testing or trial use;</li> <li>e. it is subject to Copyright;</li> <li>f. ability to deliver at a particular time;</li> <li>g. where the City has a rental Contract and an offer to buy out the equipment or extend the rental Contract which may be beneficial to the City;</li> <li>h. for matters involving security, legal matters, or confidential issues, a purchase may be made in a manner that protects the confidentiality of the Contractor or the City;</li> <li>i. a Non-Declared or City Declared Emergency Purchase situation;</li> <li>j. the supplier has a unique capability; and/or other circumstances expressly permitted under an applicable trade agreement;</li> <li>k. to obtain the services from a public utility;</li> <li>l. where goods are offered for sale to the City by auction or negotiation, such purchase will be deemed to be a Single Source; and/or</li> <li>m. other circumstances expressly permitted under an applicable trade agreement.</li> </ul> |
| <p>Negotiation</p>        | <p>Negotiation may be a component of another procurement method, it may be used for purchases of goods, services and/or construction when:</p>   |

|  |  |
|--|--|
|  | <ul style="list-style-type: none"><li>a. when the goods, services and/or construction are deemed necessary by the City Manager, and/or Department Head as a result of an Emergency which would not reasonably permit the use of any other prescribed Procurement process;</li><li>b. the required goods and/or services are in short supply;</li><li>c. competition is prevented due to the existence of any patent right, copyright, technical secret or control of raw material;</li><li>d. a Sole Source or Single Source is being recommended;</li><li>e. two (2) or more identical sources Bids are received;</li><li>f. the lowest Bid received meeting all mandatory specifications exceeds the budget amount;</li><li>g. the extension or reinstatement of an existing contract would be more cost effective or beneficial to the City;</li><li>h. only one (1) Bid received in response to a Bid solicitation ; or</li><li>i. where Authorized by Council in accordance with the established principles of Procurement law.</li></ul> |
|--|--|

All Bids shall be subject to the City's Contractor Performance Policy. All purchases and related contracts shall be authorized in accordance with the purchasing Authority set out in Appendix A.

### 3. Exemptions from procurement processes

Any requirement for purchases of goods, services and/or construction, not falling under the categories identified below, should be submitted for approval. Occasionally, there may be a need for exemptions from the regular procurement process and direct or Sole/Single source award to a supplier. Any request for an exemption to the procurement process must be signed off by the City Manager, unless the identified requirement falls under the categories identified in Appendix B from being excluded from the Procurement Policy.

#### 3.1 Unforeseeable Emergency

An emergency purchase occurs when a situation creates an immediate and serious need. A key element is that the emergency is unforeseen and could not be predicted in advance. The expiry of a contract does not qualify.

Emergency Purchases (non-declared)

A purchasing process where the usual competitive acquisition rules are suspended due to prevailing emergency circumstances.

A Non-Declared Emergency Purchase shall be made when an event occurs that is determined by the Department Head and the City Manager, in accordance with the spending limits set in Appendix A: Authority – Non-Declared Emergency, to be a threat to any of the following:

- a. public health;
- b. the maintenance of essential City services or to prevent the disruption of essential services;
- c. the welfare of persons or of public property;
- d. the protection of the City's physical assets; and/or
- e. the security of the City's interests or financial liabilities arising from unexpected conditions, and the occurrence requires the immediate delivery of goods and services and time does not permit the Department Head to follow normal purchasing activities to acquire such goods and services, the Department Head may make any necessary purchases without following the procurement policy and is authorized to do so in the most expedient and economical means possible.

When any of the above criteria are applicable, the following process shall be conducted:

- a. good(s), service(s) and/or construction shall be acquired, in an efficient, expeditious manner that is in the best interest of the City;
- b. the Department Head shall notify the City Manager as soon as possible or within two (2) working days, whichever is less;
- c. the Department Head shall provide a full written report of the particulars of the emergency situation in all cases, where the amount of the expenditure has exceeded \$10,000 in value.
- d. an accounting of expenditures to date will be reported to at the next scheduled committee meeting detailing expenditures that exceed \$10,000 under the emergency procurement procedure.
- e. where it is estimated that the expenditure exceeds the Authority of the Manager as stated in Appendix A: Authority – Non-Declared Emergency, the prior approval of both the Department Head and City Manager shall be obtained;



- f. where it is estimated that the expenditure exceeds the Authority of the Department Head as stated in Appendix A: Authority – Non-Declared Emergency, the prior approval from City Manager shall be obtained;
- g. An information report shall be submitted by the Department Head to Council by way of the City Manager explaining the actions taken and the reason(s) for expenditures exceeding \$10,000.00 as outlined in Section 10 City– Non-Declared Emergency.

#### Emergency Purchases (City Declared)

A City Declared Emergency Purchase shall be made when an event or situation occurs which leads the City Mayor to declare an emergency. The following process shall be conducted:

- a. good(s), service(s) and/or construction shall be acquired, in an efficient, expeditious manner that is in the best interest of the City; and
- b. an information report shall be submitted by the Department Head to Council by way of the City Manager explaining the actions taken and the reason(s) for expenditures exceeding \$10,000.00.

#### **CITY DECLARED EMERGENCY under the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9.**

The City Manager or Department Head may increase staff Delegated Authority limits for Low Value Purchases and/or Authority limits upon the declaration of an Emergency by the City Mayor. An information report shall be submitted by the Department Head and/or City Manager to Council explaining the actions taken and the reason(s) for expenditures exceeding \$10,000.00.

#### 4. Vendor relationships

##### 4.1 Contractor Performance

Department Heads shall be responsible for monitoring and documenting the performance of all publicly Bid Procurement Contracts in accordance with the City's Contractor Performance Policy.

The Procurement Coordinator shall be notified if action is to be taken to correct the performance of a Contractor where it falls below the standard required by the Contract.

#### 4.2 Contractor Integrity

The Procurement Review Panel may reject Bids and/or terminate existing Contracts for reasons including but not limited to circumstances where:

- a. a Bidder/Contractor has been suspected based on reasonable, objective evidence or convicted of corruption, collusion, bid-rigging and/or any other anti-competitive activity or any other offence under the Criminal Code;
- b. the City is likely to incur increased legal costs in the administration of the Contract if it is Awarded to the Bidder;
- c. a Contractor has contravened the City's Supplier Code of Conduct ;
- d. a Bidder has failed to satisfy an outstanding debt to the City;
- e. there is reasonable grounds based on sound objective evidence to believe it would not be in the best interest of the City to enter into a Contract with the Bidder; and/or
- f. responses to proposals delivered outside of scheduled timeframe.

In cases where the basis for rejection or termination as set out above is with respect to an individual who is currently an owner or member of the board of directors of the Contractor, and the individual resigns or is dismissed within a reasonable period of time, the City may continue to Award the Contract with heightened scrutiny.

The City may, within the limits of the law, Contract with a Bidder who has been convicted of an offense, when required to do so by law or legal proceedings, or when the City considers it necessary to the public interest for reasons which include, but are not limited to the exceptions, set out in Section 8.6 Litigation, Probation and Suspension of this policy.

#### 4.3 Debriefing

Upon request of a Proponent in accordance with the instructions to Proponents, the City will provide such Proponent a debriefing in respect to their Proposal. The debriefing shall not take place until after the Contract has been executed. The City will allow up to thirty (30) calendar days following the date of Contract Award notification for a Proponent to request a debriefing. Where required, debriefings shall be conducted in accordance with the procedure stated in applicable trade agreements.

#### 4.4 Local Preference

In accordance with Federal and Provincial Acts and the various trade agreements in place, there will be no local preference for purchases. The City of Brockville believes in totally fair, open competition for all vendors, regardless of their location and all vendors will be permitted to compete solely on the basis of their ability to provide maximum value, when and where the City is required to disburse public funds.

#### 4.5 Exclusion of Bidders

The City may, in its sole discretion, prohibit a supplier from bidding on future solicitations, where the supplier has, in the one year period immediately preceding the date of the bidding either;

- a. performed unsatisfactory work;
- b. failed to meet completion dates and/or failed to follow reasonable instructions;
- c. failed to comply with health and safety conditions or violations;
- d. withdrew from a tender once the contract has been awarded;
- e. failed to comply with the terms and/or conditions of a contract; and/or
- f. been a party to litigation with the City.

*Refer to the City's Contractor Performance Policy.*

#### 4.6 Litigation, Probation and Suspension

The Procurement Review Panel may reject a Bid from any Bidder or any other party (including any related or affiliated entities and any principal thereof) who is in unresolved litigation with the City or who is currently serving a suspension period in accordance with the City's Contractor Performance Policy.

Furthermore, the City shall retain the right to reject Bids which may have been received and/or awarded by the City, notwithstanding efforts by the City to screen the Award of Bids from parties engaged in unresolved litigation with the City or serving a suspension period, once the City becomes aware of such unresolved litigation or suspension period.

Notwithstanding the foregoing, where it is in the Best Interest of the City, the City may award a Contract to a Bidder who is in unresolved litigation with the City or currently serving a suspension period, or is on probation, in accordance with the City's Contractor Performance Policy in any of the following circumstances:

- a. where there is only one Bidder and the Council has approved the Award;
- b. in the case of a Non-declared or City Declared Emergency Purchase as outlined in this policy;
- c. where there is a legal obligation on the part of the City to enter into the Contract, for example, where the City has agreed to be part of a co-operative procurement and the lead agency is recommending the award to the Bidder and the City Manager has approved the Award;
- d. where the proposed Contract is pursuant to an intergovernmental or co-operative agreement and where another public agency has approved the award;
- e. where the City has been named as plaintiff or as a defendant pursuant to a subrogated interest and where, in the discretion of the City's legal counsel, an appropriate arrangement has been made to indemnify the City;
- f. where the matter has been referred to alternative dispute resolution in a form or format approved by the City's legal counsel and where an agreement has been entered into which adequately protects the City's interests, as may be determined in the sole discretion of the City's legal counsel and approved by the City Manager;
- g. where the Contractor or other party is exercising rights pursuant to the Expropriations Act;
- h. where the City is required to do so under an applicable trade agreement;
- i. where the amount in dispute in any unresolved Litigation does not exceed one hundred thousand dollars (\$100,000.00), the City Manager may accept the Bid or Award the Contract, or approve the extension of the Contract, provided that he or she is satisfied that it would be in the best interest of the City, based on the consideration of factors including but not limited to the following:
  - the Bidder's performance under previous Contracts with the City;
  - the City claims history with the Bidder; and/or
  - an assessment of the overall risk and total cost of entering into a Contract with the Bidder.

## 5. Ethical Considerations

### 5.1 Lobbying Prohibited

If any director, officer, employee, agent or other representative of a Bidder, including any other parties that may be involved in a joint venture,

consortium or similar business relationship with the Bidder, makes, from the time the Bid Call Document is released, any representation or solicitation to any elected representative or employee or agent of the City including project consultants, or to the media, with respect to the Bidder's Bid, the City will be entitled to reject the Bid.

## 5.2 Conflict of Interest

Council shall ensure all procurement activities undertaken on behalf of the City shall be in accordance with the Codes of Conduct, the Municipal Conflict of Interest Act and this policy.

Employees shall ensure all procurement undertaken on behalf of the City shall be done in accordance with the City's *Human Resources Policies, Employment Conflict of Interest Policy* and this policy.

All other City Representatives shall ensure all Procurement activities undertaken on behalf of the City shall be done so in accordance with the *City Representative Conflict of Interest Policy* and this policy.

## 5.3 Access to Information

The disclosure of information received relevant to the issue of Bids or the Award of Contracts shall be made by the appropriate officers in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act and the Personal Health Information Protection Act, as amended.

## 6. Reporting

| <b>Method of Purchasing</b>   | <b>Dollar Range</b>  | <b>Report from</b>  | <b>To</b>           |
|---|----------------------|---------------------|---------------------|
| <b>Report Pre-Procurement</b>   |                      |                     |                     |
| Low Value Purchase  | Up to 5,000          | Staff or Supervisor | Manager             |
| Informal Request for Quotation (IRFQ), 3 quotes / Request for Tender (RFT) / Request for Proposal (RFP) | \$5,000 to \$10,000  | Manager             | Department Head     |
| Request for Tender (RFT) / Request for Proposal (RFP)   | \$10,000 to \$50,000 | Department Head     | Director of Finance |
|   | Over \$50,000        | City Manager        | Council             |

|  |                       |                                     |                     |
|--|-----------------------|-------------------------------------|---------------------|
|  |                       |                                     |                     |
| Direct Negotiation / Irregular results | \$25,000 to \$50,000  | Department Head                     | Director of Finance |
|  | \$50,000 to \$150,000 | Director of Finance or City Manager | Council             |
|  | Over \$150,000        | City Manager                        | Council             |
|  |                       |                                     |                     |
| Single or Sole Source Purchases        | Up to \$50,000        | Department Head                     | Director of Finance |
|  | Over \$50,000         | Director of Finance or City Manager | Council             |
| Spending authorized under section 5.2  |                       | Department Head                     | Council             |
| <b>Report Post-Procurement</b>         |                       |                                     |                     |
| Non-Declared Emergency                 | \$5,000 to \$50,000   | Department Head                     | Director of Finance |
|  | Over \$50,000         | City Manager                        | Council             |

Council shall be informed prior to award any tender or proposals over \$50,000 as per Budgetary Control Policy.

Post-procurement reports to Council shall be provided at the next Council meeting or with the budget variance report or at an earlier meeting determined by the Director of Finance.

## 7. Restrictions

A project awarded for the purchase of goods, services and/or construction cannot be separated into two or more components to circumvent the requirements of this policy as it relates to values of purchases in order to avoid having to meet the requirements of this policy.

The City reserves the right to split an award between multiple proponents within the same purchasing opportunity.

The Procurement authority shall determine whether any purchasing activity may be accepted when it could result in an employee-employer relationship. Any City employee wishing to bid on City projects must first obtain, in

writing, approval from the City Manager to do so. In co-ordination with both the Department Head and Human Resources a judgement may be determined which will adhere to the integrity set forth in this policy.

No personal purchases shall be made for City Representatives or their families with the exception of corporate sponsored employee programs, where applicable.

No City Representative shall personally obtain any Real or Personal Property that has been declared surplus unless it is obtained through a public process, with the exception of City employees (including their immediate family and agents) directly involved in the process to declare City Real or Personal Property surplus who shall be excluded from Bidding to acquire Surplus Property offered for sale. Refer to Disposition of City Property Policy.

Where an applicable international, federal, provincial or inter-provincial trade agreement is in conflict with this policy, the requirements of the applicable trade agreement shall take precedence.

The open and competitive Procurement procedures set out in this policy shall not apply to the purchase of those items listed in Appendix B: Exceptions, or as otherwise listed in this policy.

No City Representative shall purchase, on behalf of the City, any Goods, Services and/or Construction, except in accordance with this policy.

The City may consider, amongst other items during the consideration of Award of Contracts, previously completed Contractor Performance Evaluation Forms to determine if a Bidder is Responsible.

## 8. General applications

### 8.1 Asset Disposal

Refer to Disposition of City Property Policy and Procedures for the Sale of Municipal Land by-law 103-2005.

## 8.2 Tie Bids Received

### Quotations and Tenders

In the case of a Tie Bid between two (2) or more Responsive and Responsible Bidders and where multiple awards are not possible, where a City's Contractor Performance Evaluation rating is on file for each of the Bidders, the Bidder with the best evaluation rating for the same or similar service being procured shall be selected.

If the one or more Bidders don't have a Contractors Performance Evaluation Form, these criteria may be weighted as consider appropriate:

- a. a bidder with an overall satisfactory performance record is given preference over a bidder known to have a less satisfactory performance record;
- b. a bidder in a position to provide adequate after-sales service, with a good record in this regard, will be given preference over a bidder who is less able to provide adequate service or who has a poor record;
- c. when delivery is an important factor, the bidder offering the best delivery date should be given preference;

If the above procedures cannot determine the selected Bidder, the City may:

- a. Request a second Bid from Responsive and Responsible Bidders or
- b. Enter into negotiations with Responsive and Responsible Bidders

### Proposals

In the situation, where in the opinion of the Procurement Coordinator, two (2) or more Contractor Performance Evaluation ratings are identical, the weighting criteria shall be sorted from highest to lowest importance and the rating in each weighting criteria section compared. The Proposal that scores highest when comparing the weighted criteria individually in order of importance shall be declared the winner.

## 8.3 Lowest Bid and/or Highest Bid

In the case of quotations and tenders, the lowest or highest bid, as the case may be, of a qualified bidder shall be accepted if it meets the requirements specified in the bid document.



Criteria for awarding of bids will be established prior to issuance of tender document to prospective bidders. The criteria will be detailed in the tender document.

#### 8.4 Bids by Members of Council

Members of Council are permitted to bid on City projects. When a Member of Council has any pecuniary interest as a result of submitting a bid, they must act in accordance with the provisions of the *Municipal Conflict of Interest Act*.

In addition to the requirements of the *Municipal Conflict of Interest Act*, when a Member of Council will be absent from a meeting where a matter, which is the subject of consideration, has any pecuniary interest, direct or indirect, the Members of Council shall advise the Clerk in writing, prior to the meeting to disclose the interest and the general nature thereof.

#### 8.5 Right to Reject Bids

Notwithstanding the provisions of this policy, the City shall have the right to reject the lowest or any bid at its absolute discretion. The City also reserves the right to cancel or reissue bid documents in the original format or modified as best suits the requirements of the City.

#### 8.6 Bid Dispute (Pre-Award and Post-Award)

Bidders shall advise the Procurement Coordinator stated in the Bid Document, prior to the deadline of written questions, if a Bidder needs to address any discrepancies, errors, concerns, and/or omissions in the Bid Call Document, or if they are in doubt as to any part thereof.

The Procurement Review Panel may consider all Bid Disputes (Non-Judicial) in accordance with this policy or in accordance with any applicable trade agreements having jurisdiction.

**Appendix A – Purchasing Authority**

| Method of Purchasing   | Dollar Range         | Purchasing Authority* | Approval            |
|--|----------------------|-----------------------|---------------------|
| Low Value Purchase   | Up to 5,000          | Staff or Supervisor   | Manager             |
|  |                      |                       |                     |
| <ul style="list-style-type: none"> <li>Informal Request for Quotation (IRFQ), min 3 quotes</li> <li>Request for Proposal (RFP)</li> </ul>  | \$5,000 to \$10,000  | Manager               | Department Head     |
|  |                      |                       |                     |
| <ul style="list-style-type: none"> <li>Request for Tender (RFT)</li> <li>Request for Proposal (RFP)</li> <li>Direct Negotiation / Irregular results</li> </ul> **RFP/RFT Min 3 bids required | \$10,000 to \$50,000 | Department Head       | Director of Finance |
|  | Over \$50,000        | Director of Finance   | City Manager        |
|  |                      |                       |                     |
| Single or Sole Source Purchases  | Up to \$50,000       | Department Head       | Director of Finance |
|  | Over \$50,000        | Director of Finance   | City Manager        |
|  |                      |                       |                     |
| Non-Declared Emergency   | \$5,000 to \$50,000  | Department Head       | Director of Finance |
|  | Over \$50,000        | City Manager          | Council             |

\* "Purchasing Authority" means those positions listed and includes any position which is higher in the City's reporting structure, if a staff member with approval authority is the purchaser, the approval authority must be a higher position.

All RFT and RFP over \$50,000 will be presented to the Finance and Administration Committee for information purposes and/or approval.

\*\*Council approval is required when less than 3 bids are received.

## **Exclusions**

### **Appendix B – Goods and Services “Exempt” from provision of the Procurement Policy**

#### 1. Training and Education

- a. Staff registration and tuition fees for conferences, conventions, courses, workshops and seminars
- b. Magazines, books and periodicals
- c. Memberships
- d. Staff development
- e. Facilitators and program hosts

#### 2. Refundable Employee / Councillor Expenses / General Expenses

- a. Expense claims
- b. Meals
- c. Travel and Accommodation
- d. Payroll deduction remittances
- e. Medical
- f. Licenses (vehicle, firearms, etc.), Certificate and other approvals required
- g. Debenture payments
- h. Grants to Agencies
- i. Damage claims
- j. Petty Cash replenishment
- k. Tax remittances, WSIB remittances
- l. Newspaper advertising
- m. Retirement Recognition Awards
- n. Payroll related issues / Payment for employment
- o. Charges to and from Government Bodies, including Crown Corporations
- p. Sinking fund payments
- q. Property Tax Bill printing and mailing services
- r. Postage

### 3. Professional Services and Special Services

Up to \$5,000, or defined more specifically in another City Policy or Council Policy, including, but not limited to:

- a. Committee fees
- b. Legal fees for expert or professional legal services for all City requirements and insurance matters
- c. Arbitrators
- d. POA Prosecutors
- e. Fees for Professional Witnesses appearing on the City's behalf at Court hearings
- f. Physicians, nurses, pharmacists or other Health Care providers
- g. Medical and counselling fees
- h. Realty services and Appraisal services
- i. Honorariums
- j. Public Debenture Sales
- k. Additional Non-recurring accounting and auditing services
- l. Banking services (where covered by agreements)
- m. Integrity Commissioner services
- n. Entertainers for special events
- o. Realty services for lease, acquisition, demolition, sale and appraisal or Land Property including appraisal and consulting services relating to matters of Expropriation

Professional and special services exceeding \$5,000 must follow the approval process.

4. Commodity Hedging such as electricity, natural gas, fuel, etc., under O. Reg. 653/05: Debt-Related Financial Instruments and Financial Agreements under Municipal Act, 2001, S.O. 2001, C. 25
5. Utilities (monthly charges, maintenance, utility relocations, construction, acquisition or where proprietary):
  - a. Water and Sewer
  - b. Telephone (excludes cellular)
  - c. Internet and Fibre
  - d. Cable Television
  - e. Railway crossings

6. Health and Social services including payments to social agencies for purchased services
7. Events supporting local non-profit organizations
8. The Purchase of Real Property
9. Investments, as recommended by the Director of Finance and/or City Manager
10. Any additional exceptions expressly permitted in an applicable trade agreement
11. Legal services and Labour Relations services as deemed appropriate by the City Manager up to \$ 25,000
12. When the purchase is already covered by a lease-purchase agreement
13. When an urgent purchase is necessary for fulfilling a statutory order issued by a federal or provincial authority, such as an environmental, public health, or workplace safety compliance order
14. When it is necessary to ensure compatibility with existing products or to avoid violating warranty/guarantee requirements when service is required agreement on Internal Trade and the Ontario-Quebec Trade Agreement indicate specific exceptions to competitive sourcing.

These purchases are still subject to internal financial controls, generally accepted accounting and reporting practices and Municipal Act requirements.

When directed by City Council, the following purchase of professional services will be completed through a Request for Proposal:

- a. Auditing
- b. Banking
- c. Actuaries
- d. Insurance
- e. General Legal

## **References and Related Policies**

Accounts Payable Policy  
Budgetary Control Policy  
Contractor Performance Policy  
Disposition of City Property Policy  
City Representative Conflict of Interest Policy  
Employee Conflict of Interest Policy

## **Consequences of Non-Compliance**

Failure to comply may result in payments delays, invoices refused, corrective and/or disciplinary action up to and including dismissal.

## **Review Cycle**

Finance and/or internal auditor and/or auditors may conduct reviews at any time, without notice, to assess compliance with this policy.

This policy shall be reviewed and updated every five years or before to coincide with changing business issues and external guidelines and regulations.