



Policy/Plan Date: December 16, 2019
Council Approval: January 28, 2020

Township of Adelaide Metcalfe Township Procurement Policy

PROCUREMENT POLICY

1. Purpose:

The Municipal Act, 2001, as revised, provides that a municipality shall adopt and maintain a policy with respect to its procurement of goods and services. Council, the public and the business community shall have confidence in the integrity of the procurement policy and staff involved in the procurement process. The purpose is to ensure:

- i. objectivity and integrity in the procurement process;
- ii. fair treatment of all bidders;
- iii. openness, accountability and transparency in all business transactions;
- iv. responsible management of the public funds, municipal finances and assets;
- v. best value is achieved when procuring supplies and services.

To ensure effectiveness and relevance of this policy, there shall be a review completed within five (5) years of the approval date. The policy remains in force until the review is completed and Council has adopted the revisions.

2. Scope:

This policy applies to all purchases of goods and services, lease agreements and the disposal of surplus goods. This policy applies to all staff, including employees, Council members, volunteers, students and contracted staff.

3. Objectives:

The Ontario Broader Public Sector Supply Chain Code of Ethics is based upon the tenets listed below. All members of Council and all employees who are authorized to purchase goods, services or construction on behalf of Adelaide Metcalfe are to adhere to the following:

Personal integrity and professionalism

The public expects their taxpayers' money to be used with honesty, due diligence and care. Individuals involved with procurement activities are expected to conduct themselves with integrity and professionalism, show respect for each other and the environment, and safeguard confidential information. Township staff should not engage in any activity that creates, or appears to create, a conflict of interest.

Accountability and transparency

All activities involved in the purchase of goods and services using public funds should be fair and transparent, and for the purpose of acquiring the best value for money.

Compliance and continuous improvement

Adelaide Metcalfe has established and will regularly review the policies and procedures around procurement. Staff will recommend improvements as necessary, acquire additional procurement knowledge and skills, and share best practices.

Further, Adelaide Metcalfe Employee Code of Conduct and Council Code of Conduct shall govern appropriate conduct and decision making within the authority granted under this policy.

No member of staff or Council may receive a personal benefit from any contract for supplies and/or services or benefit from the very nature of their employment with Adelaide Metcalfe or their being on Council, as the case may be.

4. Definitions:

In this policy, the following definitions are used:

- a) **“Approved Budget”** means the annual budget approved by the Township and any amendment thereto.
- b) **“Blanket Order”** means the agreement wherein a vendor will sell certain items to the Township for an agreed upon period of time with established terms and conditions.
- c) **“CAO”** means the Chief Administrative Officer of the Township as appointed by by-law.
- d) **“Capital Expenditure”** means those expenditures identified by the Council of the Township in annual budget estimates in the Capital portion of the budget.
- e) **“Cardholders”** means employees authorized by resolution of Council to obtain a Township credit card in their name.
- f) **“Conflict of Interest”** is defined as a situation or circumstance, real or perceived, which could give a supplier or consultant an unfair advantage during a procurement process or compromise the ability of a supplier or consultant to perform its obligations under their contract.

- g) **“Council”** means the Council of the Township of Adelaide Metcalfe.
- h) **“Credit Card”** means the personalized card issued through a Township approved supplier to the employee.
- i) **“Department Manager”** means the head of one of the departments operating within the Township.
- j) **“Emergency Purchase”** means a purchase made in a crisis situation where immediate action is required to prevent the possible loss of life or property or significant financial loss or environmental impacts.
- k) **“Generic”** means that no specific brand or name shall be included as part of the specifications unless such a brand or name is required to identify the intent of the purchase, order or proposal.
- l) **“Township”** means the Township of Adelaide Metcalfe.
- m) **“Purchasing Designate”** means a person designated by a Department Manager to exercise any or all responsibilities of that department manager with respect to policy. The Department Manager must notify the Treasurer in writing of the name(s) of the Purchasing Designate(s) within their department.
- n) **“Quotation”** means a written offer to sell or a “bid” obtained from selected suppliers to supply stipulated goods or services at a particular price.
- o) **“Request for Proposal”** also known as RFP is the process used to solicit bids from bidders for the purchase of goods or services where a clearly defined specification is not available or is difficult to develop due to unknown factors or uncertainty of requirements. The decision to award to a proponent is based on evaluation criteria that will determine the proposal containing the highest value for the Township. Price is not always the deciding factory and negotiation may be used to reach final agreement with the successful proponent.
- p) **“Request for Tender”** also known as RFT is a request for bids where the specifications are defined. Price is not always the deciding factor and negotiation may be used to reach final agreement with the successful proponent.
- q) **“Services”** means items such as telephone, gas, water, hydro, janitorial and cleaning services, consultant services, legal surveys, medical and related services, insurance, leases for grounds, buildings, office or other space required by the Township and the rental, repair or maintenance of equipment, machinery, or other personal and real property.
- r) **“Small Order Purchases”** means the purchase of goods and services up to an amount not exceeding \$10,000.00.
- s) **“Supplies”** means goods, wares, merchandise, material and equipment.

- t) **“Tender”** means a document, which sets out particular specifications for the commodity or service required. This can also refer to an offer in writing to execute some specified work or to provide some specified articles at a specified rate.
- u) **“Township”** means the Township of Adelaide Metcalfe.
- v) **“Treasurer”** means the Treasurer of the Township.
- w) **“Vendor”** shall mean any person or enterprise supplying goods or services to the Township.

5. Roles & Responsibilities:

The Council of the Township of Adelaide Metcalfe has ultimate authority for all expenditures. Council delegates this authority by the authorization of budgets or by specific resolution. The Treasurer cannot pay for any item that has not been authorized by Council through budget appropriation or specific resolution.

Resolutions approving budget amendments, capital expenditures or special appropriations shall reference the purpose of the expenditure, cost estimates or expenditure limitation.

6. Procurement Policy:

The Department Manager shall be responsible for approval of accounts within the approved budget for their Department or any amendment to the same as approved by Council. The Department Manager may appoint a Purchasing Designate to exercise any or all responsibilities assigned to that Department Manager by this Purchase Policy. It is the Department Manager’s responsibility to notify the Treasurer in writing regarding the name of the Purchasing Designate.

Staff reports recommending budget amendments, capital expenditures or special appropriations shall be approved by the relevant Department Manager prior to presentation to Council. The Township shall give proper notice in preparing a budget amendment.

7. Procedure:

Purchasing Authority and Procedures

A Department Manager and/or CAO are hereby authorized to make small order purchases for goods or services under \$10,000 from such vendors and upon such terms and conditions, as the Department deems appropriate. The Department Manager will attempt to obtain competitive prices.

A Department Manager and/or CAO are hereby authorized to make quotation purchases for goods or services between \$10,000.00 and not more than \$50,000.00 from such vendor and upon such terms and conditions as the Department Manager deems advisable, subject to first obtaining at least three (3) written quotations, whenever possible. Bid documents and specifications (as applicable) can be issued and received by 3-mail and/or fax transmission at the originating Departments location. The bid details are to be maintained within the originating Department for three (3) years.

The Department Manager and/or CAO shall not order goods or services exceeding \$50,000.00 without requesting and obtaining sealed tenders for the goods and services unless specifically authorized to do so by a resolution of Council for a particular transaction. Bids must have a submission label detailing the project name, bidder's name and address. All attempts must be made to obtain at least three (3) written tenders whenever possible. See tendering procedures.

Notwithstanding the above, adherence to this Procurement Policy is not required with respect to those items listed below, or to a transaction specifically authorized by resolution of Council to be exempt from this purchasing policy:

- Purchases for consulting services for a program where services (i.e. bridge inspection/evaluation) have been awarded to a consulting firm on an on-going basis, where clearly identified in the budget.
- Purchases for the supply and placement of road material throughout the Township in excess of \$50,000.00, but not to exceed \$100,000.00, when clearly identified in the budget.
- Purchases of replacement parts, where the original equipment manufacturer is the sole provider of that equipment.
- Single source supply. If the single source supply is in excess of \$25,000.00, Council approval is required.

A Department Manager and/or CAO shall ensure that unspecified capital expenditures in an amount exceeding \$25,000.00 in the annual estimates receive prior Council approval.

Council approval is not required if all of the following conditions have been met:

- The total value of the quotation is less than the amount approved in the current year estimates.
- The contract is being awarded to the lowest bidder meeting the specifications.
- There are no senior government requirements for Council approval of a quotation.

Tendering Procedures

The following tendering policy shall apply to the purchase of all types of goods, works and services where the estimated cost is expected to exceed \$50,000.00.

All tenders shall be advertised electronically on either the Township website or an integrated online portal for the public bid distribution for at least fourteen (14) calendar days preceding the closing date for tenders or for a longer period if required by trade agreement.

All addenda material will be posted at minimum 48 hours prior to bid closing. Tender closing may be extended to allow sufficient time for bidders to consider addenda materials.

All tenders shall include the provision "the lowest or any bid will not necessarily be accepted".

All tenders shall close at 12:00 pm on the date specified in the advertisement (or otherwise determined by Township staff). Late bids will not be accepted. Tenders shall be opened at a scheduled public tender opening following the tender closing by the appropriate Department Manager or Purchasing Designate, and at least one (1) other staff member and any other person deemed necessary.

A record of the tendered prices will be noted together with the list of tenderers. Tenders will be referred to the appropriate Department Manager for review.

A request for information may be required where there is doubt regarding a Company's ability to meet the terms of the tender. A bid may be deemed non-compliant if the bidder is unable to provide proof, to the satisfaction of the Department Manager, that they are experienced and capable of meeting the terms of the tender.

Tender calls shall require deposits and bonding where a signed contract is used as follows:

- Certified cheque or bid bond for an amount not less than \$5,000.00, or more than 10% of the tendered price.
- Performance bond in the amount of 100% of the tendered price.
- Labour and Material Payment bond in amount not less than 50% of the tendered price.

The acquisition of major equipment does not require tender deposits, performance or payment bonds.

Council approval is not required if all of the following conditions have been met:

- The total value of the tender is less than the amount approved in the current year estimates.
- The total value of the tender is less than \$50,000.00.
- The contract is being awarded to the lowest bidder meeting the specifications.
- There are no senior government requirements for Council approval of a tender.

A full report on the tender is to be presented to the Council at the next regularly scheduled Council meeting.

Request for Proposals

A Department Manager may use a request for proposal in place of a Request for Tender when goods or services cannot be specifically stipulated or when alternative methods are being sought to perform certain functions or services.

In the case of requests for proposals. Terms of reference for the project, including information pertaining to the evaluation of the Request for Proposal, shall be issued to perspective applicants.

Emergency Purchases

A Department Manager is hereby authorized to make emergency purchases that exceed \$25,000.00.

A Department Manager who has made an emergency purchase shall present a report to Council at the meeting immediately following the emergency purchase.

Credit Card Purchases

As per the Township Credit Card Policy, approved Cardholders of Township Credit Cards are subject to the Procurement Policy. The aggregate limit of the Township Credit Cards is \$22,500.00 and is distributed as follows:

CAO/Treasurer	\$10,000.00 Limit
Clerk	\$ 2,500.00 Limit
Public Works Manager	\$ 5,000.00 Limit
Chief Building Official	\$ 2,500.00 Limit
Fire Chief	\$ 2,500.00 Limit

Purchase by Negotiation

A Department Manager may, under direction of the Chief Administrative Officer, purchase by negotiating with one or more vendors. In such a case, the requirement for inviting tenders and quotations may be waived under the following conditions:

- When, due to market conditions and in the judgement of the Department Manager, goods are in short supply.
- Where there is only one source of supply for the goods and services.
- Where small order purchases for goods or services are to be obtained by means of a blanket order from sole source vendors or suppliers or from retail or wholesale vendors where a quotation is impractical.
- Where the Department Manager has been previously unsuccessful in breaking identical bids and the same goods are then required.
- Where the lowest bid meeting specifications is excessive in total cost and/or exceeds the estimated costs by 10 percent.
- Where all bids received fail to meet the specifications and/or tender terms and conditions and it is impractical to recall tenders or quotations.

In respect of any negotiated purchase exceeding \$25,000.00, the Chief Administrative Officer shall review same, and if so advised, shall recommend that Council approve the negotiated purchase at the next scheduled meeting of Council.

The methods of negotiation shall be those accepted as standard negotiating practice and shall employ fair and ethical practices. The information pertinent to and the results of all such negotiations shall be reported to the Chief Administrative Officer and shall, at his or her direction, be reported to Council.

Exceptions

The purchasing methods described in this procurement policy shall not apply to the following goods and services:

- Training and education
- Memberships
- Reimbursement of employee and Councillor expenses
- Payroll deductions

- Licenses, including hardware and software licenses and maintenance contracts
- Employee benefits
- The hiring of contract employees
- Debenture payments
- The borrowing and investing of money, the rental, lease, purchase and sale of property, land, or accommodation
- Insurance premium payments, claim settlements and adjuster services
- Damage claims
- Legal fees and other professional services related to litigation or legal matters
- Consulting fees with respect to employee matters
- Utilities

Tie Bids

In the event that two or more identical Bids are received, a best and final offer(s) will be solicited from each of the Vendors in order to break the tie. If this effort is unsuccessful, then a draw will be held to determine the successful Vendor (the first drawn Vendor shall break the tie and be successful).

Trade Agreements

The Township does not have or use any “Local Vendor or Supplier Preference” in its dealings, in order to comply with the *Ontario Discriminatory Business Practices Act, R.S.O., 1990*, as amended, the *Canadian Free Trade Agreement, 2017 c.5*, as may be amended from time to time; and the *Competition Act, R.S.C. 1985, c.C-34*, as may be amended from time to time; and The Canadian-European Union (EU) Comprehensive Economic and Trade Agreement (CETA), as may be amended from time to time.

In the evaluation of contract award(s) the Township shall not impose or consider local content or other economic benefits criteria that are designed to “favour”:

- a) The goods or services of a particular Province or region, including goods and services included in a construction company; or
- b) The suppliers of a particular Province or region of such goods or services.

The Township must follow provisions of applicable trade agreements. Where these trade agreements do not require the Township to conduct procurement through a competitive process, the Township is strongly encouraged to utilize a competitive approach to procurement.

The Township is required to comply with any amendments to applicable trade agreements approved after adoption of this Policy.

General Provisions

A Department Manager may request exemption from any or all of the purchasing methods outlined in this policy by submission of a request to the CAO and Council. Such exemption may be granted by resolution of Council.

Neither the CAO nor any Department Manager or other employee shall divide, stagger or alter any contract or purchase to avoid any requirements of this policy.

No employee or elected official of the Township shall purchase or offer to purchase, on behalf of the Township, any good or services except in accordance with the policy.

No personal purchases shall be made by the Township for elected officials or employees.

The purchase of goods and services from firms located within the boundaries of the Township shall be encouraged whenever possible, on the basis of all other selection criteria being equal.

Performance evaluations may be undertaken on suppliers and providers of service.

The CAO and Department Manager shall ensure that in all purchases, price and past performance shall be the prime selection criteria provided all specifications are met. Such specifications are to be generic or "as equivalent". All factors influencing the purchasing decision are to be included in the specifications.

Each Department Manager or the Purchasing Designate shall ensure that, in respect of his or her department, all invoices and accounts from vendors shall be authorized, in accordance with this policy, prior to payment. Authorization in the form of signatures of the Department Manager and staff denoting clerical accuracy, budgetary or specific resolution approval and indication that goods and services were received in good order must be in place. These required signatures are deemed to authorize payment.

Between the last regular meeting of Council in any year and the adoption of estimates for the next year, the Treasurer is authorized to pay the accounts of any ordinary business transactions of the Township that are required to maintain services. This shall include the payment of accounts or previously approved capital items and projects.

After the adoption of estimates, the Treasurer is authorized to pay the accounts approved by the appropriate Department Manager and to pay contract accounts upon receipt of evidence of value received and which is approved by the appropriate Department Manager.

The Department Manager shall ensure that any estimated or actual over expenditure of a department's facility, program or capital budget will be reported to Council.

Co-Operative Purchasing

The Township may and is encouraged to participate with other municipalities, municipal agencies or public authorities, in co-operative purchase ventures when the best interest of the Township will be served, such as, but not limited to, Elgin Middlesex Oxford Purchasing Co-operative (EMOP).

In the event that participation in the co-operative purchase venture does not comply with the Township's purchasing policy, Council shall authorize participation in the purchase venture.

On-Going Services and Contracts

This section is intended to deal with on-going services and contracts the Township has with various suppliers. Examples the following:

- Audit Services
- Banking Services
- Food Management Services
- Provision of Property and Liability Insurance
- Provision of Health Care Benefits Maintenance and Cleaning Contracts
- Counseling and Employment Assistant Services

At the time of renewal, the Department Manager may recommend to Council that the service be continued, or that it be tendered or that quotations be obtained.

Accessibility

When procuring goods, services and facilities, the Township of Adelaide Metcalfe will comply with the requirements of the Ontario Human Rights Code, the Accessibility for Ontarians with Disabilities Act, 2005 and its associated standards enacted through regulation. The Township will integrate appropriate accessibility design, criteria and features into the purchasing process.

Where it is not practicable to incorporate accessibility design, criteria and features, the Township will prepare an explanation as to why accessibility is not included, and provide this explanation to the public, upon request.

Where a third party is retained for services, the contractor shall ensure that any information, products, deliverables and/or communication (as defined in the Integrated Regulation) produced pursuant to the Contract shall be in conformity with World Wide Web Consortium Web Content Accessibility Guidelines (WCAG) 2.0 Level AA and shall be provided in accessible Word, Excel, PowerPoint, PDF, etc.

In accordance with Ontario Regulation 191/11 (Integrated Accessibility Standards Regulation), the contractor is responsible to ensure that all of its employees and volunteers are adequately trained. The Township may request training logs from contractors.

Occupational Health and Safety

Vendors who will be supplying a service to the Township must provide in their documentation a commitment to carry out the work, on or related to Township assets or property, in conformity with the Occupational Health and Safety Act or any other related applicable legislation and regulations.

Insurance and Workplace Safety and Insurance Board (WSIB)

All vendors who supply services to Adelaide Metcalfe shall, before the start of work, provide proof of insurance and WSIB. General liability amounts shall have limits no less than \$2,000,000.00 and will be determined by the Department Manager.

Privacy Legislation

The Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) makes public bodies accountable to the public and responsible to protect personal privacy. The privacy legislation stipulates a right of access to records held by public bodies and regulates how public bodies manage personal information collected. All correspondence, documentation, and information provided to the Township by any proponent in connection with the respective request for procurement will become the property of the Township. All documentation relating to a request for procurement not identified as confidential is subject to MFIPPA and may be released, pursuant to the Act. At a minimum, the Proponent's name and total bid amount will be made publically available on request.

Individuals engaged in Supply Chain Activities on behalf of the Township should be aware of the implications of the Freedom on Information (FOI) requirements of MFIPPA and the resulting importance of professional conduct. Freedom of Information requests can be made for information on tendering and administration of contracts. Proponents must identify in their submission material, any scientific, technical, commercial, proprietary or similar confidential information, the disclosure of which would cause them harm.

In some cases, successful bidders may be required access to work on the Township premises, or acquire and be exposed to confidential information in the custody of the Township in order to fulfil the conditions of their procurement. In such a case, the bidder must sign a confidentiality agreement where the bidder agrees not to divulge any personal information without the explicit consent of the Township.

Bid Dispute Resolution

To maintain the integrity of the process, bidders who believe they have been treated unfairly can make this known by contacting the Township's Treasurer prior to the award of the contract. Disputes shall be resolved as follows:

- a) A meeting between the bidder and the Treasurer;
- b) If (a) does not lead to a resolution between the bidder and the Township, the bidder may appeal the decision to the CAO.

If (b) does not lead to a resolution between the bidder and the Township, the bidder may appeal the decision to Council. Township Council decision is final.

8. Participation of Elected Officials in the Procurement Process:

- I. Elected officials may participate in the procurement process in the narrowly defined circumstances as described for specific procurement projects that are identified by Council.
- II. And/or elected officials may participate as members of a steering committee for significant procurement projects identified by Council.

When a Council identifies a significant procurement project for which elected officials are to participate as members of a steering committee, Council will also address the following issues:

- a) The extent of the elected officials' involvement in the procurement process to ensure that they are able to provide input prior to the issuance of the procurement documents and to oversee the procurement process, but not function in a decision making capacity;
 - b) The selection of elected officials who are able to comply with provisions of *Conflicts of Interest* and who do not otherwise have a perceived or actual conflict of interest that would impair their ability to be impartial; and
 - c) The number of elected officials to participate.
- III. Elected officials may not participate in the procurement process where they are required to be in an evaluation capacity.

9. Conflicts of Interest:

Employees of the Township shall not have a pecuniary interest, either directly or indirectly, in any contract or with any person acting for the supply of goods and/or services or contract for which the Township pays or is liable, directly or indirectly to pay unless such interest has been declared pursuant to the Code of Conduct Policy, as amended or replaced from time to time.

Employees of the Township are required to declare any pecuniary interest, either direct or indirect, in writing to the CAO indicating the specific nature of the conflict.

Elected officials are required to declare any pecuniary interest direct or indirect, and its general nature, which may result in a conflict of interest pursuant to the Municipal Conflict of Interest Act and the member of Council shall otherwise comply with that Act.

Any contract with the Township may be voided in which a member of Council or any employee of the Township has an undeclared direct or indirect pecuniary interest.