

**THE MUNICIPALITY OF NORTH PERTH**

**BY-LAW NO. 58-2024**

**Being a By-law to ESTABLISH POLICIES AND PROCEDURES FOR THE  
PROCUREMENT OF GOODS AND SERVICES, AND THE DISPOSAL OF SURPLUS  
GOODS FOR THE MUNICIPALITY OF NORTH PERTH AND TO REPEAL BY-LAW  
150-2017**

**WHEREAS** pursuant to Section 270 of the Municipal Act, S.O. 2001, c. 25, a Municipality and local Board shall adopt policies with respect to its procurement of goods and services; and

**WHEREAS** the Council for the Municipality of North Perth recognizes its responsibility to provide for fair, transparent, and accountable purchasing practices for the effective utilization and disposal of all its resources; and

**WHEREAS** the Council for the Municipality of North Perth has deemed it desirable to repeal By-Law 150-2017 being the By-Law to provide for the purchase of goods and services, the payment of accounts and the reporting of financial matters and pass a new By-Law as herein set out; known as the Procurement By-law.

**NOW THEREFORE** the Council of the Municipality of North Perth HEREBY ENACTS AS FOLLOWS:

1. THAT Schedule "A" attached is to be known as the NORTH PERTH PROCUREMENT BY-LAW and deals with the Procurement of Goods and Services, and Disposal of Surplus Assets By-law shall be approved and come into force and take effect upon passing.
2. AND THAT By-Law 150-2017 is hereby REPEALED.

**PASSED** this 9th day of September, 2024.

"Todd Kasenberg"

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**MAYOR TODD KASENBERG**

"Sarah Carter"

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**ACTING CLERK SARAH CARTER**

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## 1. DEFINITIONS

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In this By-Law,

**"Accessibility"** is a general term used to describe the degree of ease that something (e.g., device, service, and environment) can be used and enjoyed by persons with a disability. The term implies conscious planning, design and/or effort to ensure it is barrier-free to persons with a disability, and by extension, highly usable and practical for the general population as well.

**"Accessible"** is that which can be easily reached or obtained; a facility that can be easily entered; posing no obstacles to persons with a disability.

**"Agreement to Bond"** means a bond issued by a surety company that ensures that if the contractor is awarded the job and signs the contract, the surety will provide the performance bond and labour and material payment bond required in order to commence with the project.

**"Agreement or Contract"** means a legal document that binds the Municipality of North Perth and all other parties.

**"Asset"** means physical property (e.g., furniture, equipment, vehicle) other than real estate or natural resources owned by the Municipality and possibly having a permanent asset label affixed.

**"Asset Disposal Form"** means a document used to track Disposal of Assets.

**"Authority or Approval Authority"** means the authority Delegated by this By-law to a Municipal officer or employee to initiate a Procurement, conduct a Procurement process, approve the award of a Contract, Payment or approve a Contract Amendment, subject to the terms and conditions specified in this By-law.

**"Authorized Purchases"** are those purchases that have prior approval of Council either through resolution or through the approval of the annual Departmental budget (budget process and adoption) but not per line items within the budget.

**"Award"** means authorization to proceed with the purchase, sale or disposal of goods and services from or to a chosen Supplier.

**"Barrier-free"** refers to a quality or characteristic of environments, policies, processes, or practices that enables the full participation by all members of society.

**"Bid"** means an offer or submission from a Supplier in response to a Bid Solicitation that is subject to acceptance or rejection by the Municipality.

**"Bidder"** means the entity, entities, or individual(s), as applicable, who submit a Bid in response to a solicitation process.

**"Bidding System"** means the Municipality's electronic bidding system.

**"Bid Approval Report"** means a completed Purchase Requisition, Expenditure Authorization, or Council Resolution which authorizes the purchase of Goods and/or Services and is executed by the Purchasing & Document Execution Authorities as set out in Appendix A.

**"Bid Bond"** means a cash deposit issued as part of a bidding process by the contractor to the Municipality, to attempt to guarantee that the winning bidder will undertake the contract under the terms at which they bid. The bid bond assures and guarantees that should the bidder be successful, the bidder will execute the contract and provide the required surety bonds.

**"Bid Call Document"** means the solicitation document in the form of an Informal Quick Bid (Request for Quotation (RFQ) or Quick Bid Request for Proposal (QBRFP), Request for Tender (RFT), Request for Proposal (RFP) or Sale(s).

**"Bid – Dispute Resolution"** means a provision in the Procurement By-Law that outlines procedures to ensure that a protest to a bid is handled in an ethical, fair, reasonable, and timely fashion.

**"Bid Review Panel"** means two or more persons appointed pursuant to this by-law to review Bid irregularities or other issues pertaining to a Bid including, a Bid Protest, in accordance with the Municipality's Procurement Policies and Procedures, or to review matters involving Contractor Performance.

**"Bid Solicitation"** means a formal request for Bids including a Request for Expression of Interest; Request for Information; Request for Pre-Qualification; Informal Request for Quotation; Request for Quotation; Request for Proposal or Request for Tender.

**"Blanket Order"** means a contract for the purchase of Goods and/or Services which will be required frequently or repetitively, and which establishes prices or a method for determining prices, terms and conditions and the period of time during which a vendor agrees to provide Goods and/or Services to the purchaser upon the purchaser's demand in accordance with said prices, terms, and conditions.

**"Budget"** means the budget or portion of the budget approved by Council.

**"Chief Administrative Officer" or "CAO"** means the Chief Administrative Officer of the Municipality, their Designate or any successor position thereto.

**"Cheque"** means a written or electronically produced cheque in an approved format and duly authorized to obtain Goods and Services.

**"Clerk"** means the Clerk of the Municipality or Deputy Clerk.

**"Co-Operative Purchasing"** means the action taken when two or more entities combine their requirement to obtain advantages of volume purchase, including administrative savings and other benefits, pursuant to one of a variety of arrangement whereby two or more entities purchase from the same supplier using single bid solicitation.

**"Competitive Bidding"** means a method of bidding that provides for competition among bidders.

**"Compliant Bid"** means a Bid that meets the terms and conditions of the Bid Solicitation and this by-law.

**"Conflict of Interest"** means a situation where a personal, business, or other interest of an employee of the Municipality is in conflict with the interests of the Municipality, and includes, but is not limited to:

- a. the giving or receiving of a direct personal gain or benefit, or a direct advantage or privilege, by any person or business that offers Goods and/or Services to the Municipality.
- b. direct interest in any business that provides Goods and/or Services to the Municipality.

**"Construction"** means the construction, reconstruction, demolition, repair or renovation of a building, structure or other engineering or architectural work. It includes site preparation, excavation, drilling, soil or seismic investigation, the supply of products and materials and the supply of equipment and machinery incidental to the construction, and the installation and repair of fixtures of a building, structure or other engineering or architectural work.

**"Contract"** means a binding agreement between two or more parties that creates an obligation to provide or sell Goods or perform Services.

**"Municipality"** means the Municipality of North Perth.

**"Council" or "Municipal Council"** means the Council of the Municipality of North Perth.

**"Department"** means any Department of the Municipality including any division within a department.

**"Department Head"** means the designated lead of the Department responsible for direction and operation of the Department.

**"Designate or Delegate"** means a person duly appointed to act on behalf of the authorized authority.

**"Direct Negotiation"** means a non-competitive purchasing method and refers to the negotiation of an agreement for the purchase of Goods and/or Services where there is no open competition among or between Vendors.

**"Disability" or "Disabilities"** shall have the same meaning as set out in the *Ontarians with Disabilities Act, 2001*, or any successor legislation thereto.

**"Disposal Methods"** means the following methods by which an Asset, which has been determined to be Obsolete, Scrap or Surplus, may be disposed of through:

- a. on-line Public Auction.
- b. Public Auction.
- c. Sealed Bid.
- d. Trade-in on Replacement Asset.
- e. Direct sale; or
- f. Donation.

**"Emergency"** means an event that occurs, which in the opinion of the Chief Administrative Officer or designate, requires immediate repair or replacement of equipment, services, or facilities in order to maintain a required public service or to prevent danger to life, limb or property within the Municipality of North Perth.

**"Electronic Bidding (Email or Internet)"** means the Municipal e-bidding system through [www.bidsandtenders.ca](http://www.bidsandtenders.ca) which is a method for the posting and receiving of bids, quotations, proposals, tenders, etc. of issued Solicitations and/or receiving written Bids where the process of issuing and/or receiving Bids by email or internet is considered appropriate.

**"Fair Market Value"** means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm's length who are fully informed and not under any compulsion to transact.

**"Goods and Services"** means all supplies, labour, materials or equipment professional and consulting services and related procurement services. This may include installation, training, inspection, maintenance and repairs, and leases, but does not include land purchases or sales.

**"Insurance"** is the amount and type of insurance coverage required by the Municipality of North Perth, to the satisfaction of the Treasurer. Evidence of adequate insurance coverage will be by certified documents issued by an insurance company licensed to operate in the Province of Ontario, certifying that the bidder is insured in accordance with the Municipality's insurance requirements.

**"Irregular Result"** means the occurrence or likely occurrence in connection with any method of purchase where competitive bids or proposals are submitted, of any of the following:

- a. two or more identical Compliant low bids or proposals have been received.
- b. the lowest Compliant bid or proposal exceeds the estimated cost or budget allocation.
- c. all bids or proposals received are not Compliant; or

- d. for any reason the award of the contract to or the purchase from the lowest Compliant bidder or proponent is procedurally inappropriate or not in the best interests of the Municipality.

**"Lobbying"** means the advocacy of an interest that is affected, actually or potentially by the Bid Solicitation process or individuals involved in the Bid Solicitation process, including seeking to influence the outcome of the Bid Solicitation process or subsequent Award.

**"Lowest Compliant Bid"** means the Bid that:

- a) Will provide the Municipality with the desired Goods and/or Services at the lowest Total Acquisition Cost.
- b) Is not non-compliant bid.
- c) Meets all the mandatory requirement of the Bid solicitation
- d) Was submitted by a bidder who:
  - I. Has the skills, ability, and willingness to complete the Contract.
  - II. Responsive and Responsible Bidder, and
  - III. Has acceptable past performance, reputation, and ethics.

**"Mayor"** means the elected Mayor of the Municipality and/or their designate.

**"MFIPPA"** means the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56.

**"Negotiation"** means a purchasing method whereby the Municipality may negotiate directly with one or more Suppliers with the intent to award a Contract or extend an existing Contract.

**"Non-compliant Bid"** means a Bid which fails to comply substantially with the Bid solicitation, and "non-compliance" has a corresponding meaning.

**"Obsolete"** means outdated and/or not economically feasible for upgrading/repair.

**"Open Market Purchasing"** means a competitive method of purchasing Goods and/or Services where vendors are given an equal opportunity to submit Bids in accordance with this by-law.

**"Procurement Officer"** means the employee of the Municipality and/or their Designate, who is responsible for the Municipality's centralized procurement function and is hereby responsible for ensuring that the procurement by-law, policies and procedures are consistently applied in the Municipality and who serves as a resource to Departments in support of the procurement function.

**"Professional/Consultant/Consulting Services"** means those services requiring the skills of professionals for a defined service requirement, including but not limited to:

- a. architects, engineers, designers, surveyors, geoscientists, project managers, consultants, auditors, accountants, medical professionals, and legal counsel/advisors.
- b. firms or individuals having specialized competence in environmental, planning, or similar disciplines; and
- c. software, graphic design and web-design consultants and any other persons providing similar services.

**"Proposal"** means an offer to supply Goods and/or Services on which end results are outlined but no detailed specifications are given to the Bidders as to the Goods and/or Services or how the work is to be performed, through a Request for Proposal.

**"Purchase"** means to acquire Goods and/or Services by purchase, rental, lease, or trade, including Construction.

**"Purchasing"** means the process for obtaining Goods and/or Services.

**"Request for Expression of Interest"** means a request by the Municipality seeking

responses from potential Vendors to determine the interest of the marketplace in providing Goods and/or Services considered to be procured by the Municipality.

**"Request for Information"** means a request by the Municipality seeking responses from potential Vendors to gather information from the marketplace to provide a scope of work or services considered to be procured by the Municipality.

**"Request for Prequalification"** means a request by the Municipality preceding a Request for Proposal, Request for Quotation, or a Request for Tender seeking submissions from potential Vendors where it is deemed that the nature and complexity of the work involved warrants the time and effort required to pre-select the most experienced and qualified Vendors.

**"Informal Request for Quotation"** means a request by the Municipality seeking submissions from potential Vendors to obtain Goods and/or Services under **\$25,000** to obtain low dollar value of goods and services expeditiously and cost effectively. The informal process may be used by authorized employees in accordance Appendix A of this by-law.

**"Request for Quotation"** means a request by the Municipality seeking submissions from potential Vendors to obtain Goods and/or Services with a value not exceeding \$100,000, excluding taxes, whenever the requirements can be precisely defined. The expectation is that the lowest compliant Bid meeting the requirements specified in the Request for Quotation, would be accepted, subject to any other provisions of the contract documents and this by-law.

**"Request for Proposal"** means a request by the Municipality seeking submissions from potential Vendors to obtain Goods and/or Services of a unique or complex nature where all or part of the requirements cannot be precisely defined. The expectation is that the proposal offered by the highest ranked proponent resulting from an evaluation and meeting the requirements specified in the Request for Proposal, would be accepted, subject to any other provisions of the contract documents and this by-law.

**"Request for Tender"** means a request by the Municipality seeking submissions from potential Vendors to obtain Goods and/or Services with a value greater than \$100,000, excluding taxes, whenever the requirements can be precisely defined. The expectation is that the lowest compliant Bid meeting the requirements specified in the Request for Tender, would be accepted, subject to any other provisions of the contract documents and this by-law.

**"Requisition"** includes both any document, whether electronic or printed, prescribed for use in initiating the purchase of required Goods and/or Services and the activity of initiating the purchase of required Goods and/or Services. "Requisitioning" and "requisitioned" shall have similar meanings.

**"Responsive and Responsible Bidder"** means one who complies with the provisions of the bid solicitation, including specifications, contractual terms, and conditions, and who can reasonably be expected to provide satisfactory performance on the proposed contract based on reputation, references or performance on previous contracts, and adequate financial and other resources.

**"Scrap"** means having no value.

**"Sealed Bid"** means a Bid submitted in a sealed envelope to a specified location, by a specified date, at a specified time.

**"Sealed Tender"** means a Sealed Bid that contain an offer in writing to execute some specified services or to supply certain specified goods for a certain price provided in response to a publicly advertised Request for Tenders.

**"Services"** means intangible products that do not have a physical presence and includes Professional Services. No transfer of possession or ownership takes place



when services are sold, and they: 1) cannot be stored or transported; 2) are instantly perishable; and 3) come into existence at the time they are bought and consumed.

**"Single or Sole Sourcing"** means a non-competitive acquisition from a specific supplier, even though there may be more than one supplier capable of delivering the same goods or services, or a non-competitive acquisition where there is only one supplier for the source of the goods or services, due to reasons set out in section 8.18 of this by-law. "Single Source" and "Sole Source" have similar meanings.

**"Special Circumstance"** means:

- a. an event that is exceptional or could not be foreseen and is likely to pose a threat to the health, safety, or welfare of the public.
- b. an event that, unless immediately addressed, is likely to cause significant loss or damage to property and/or the environment.
- c. an event that has disrupted any essential service that needs to be re-established without delay; or
- d. an emergency as defined in the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.8, as amended, or any successor legislation thereto.

**"Specialized Services"** means those services requiring the skills of trades including, but not limited to, electrical, mechanical, drywall, painting, HVAC, roofing, plumbing, electronics, and insulation.

**"Supplier"** means any individual or organization offering Goods and/or Services including, but not limited to, contractors, consultants, vendors, and service organizations.

**"Surplus Goods"** means any items no longer having any use to the Municipality or in excess of the needs of the Municipality, including, but not limited to, obsolete supplies, scrap materials and vehicles excluding real property.

**"Tender"** means a written detailed offer from a Supplier to supply Goods and/or Services to the Municipality.

**"Treasurer"** means the Treasurer of the Municipality of North Perth or their designate.

**"Vendor"** means an individual or organization offering Goods and/or Services including, but not limited to, contractors, consultants, suppliers and service organizations.

## 2. BY-LAW STATEMENT

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The purpose, goals, and objectives of this by-law and of each of the methods of purchasing authorized herein are:

- a. to maintain trust and confidence in the stewardship of public funds through objective, fair, transparent, and efficient procurement processes.
- b. to promote effective use of funds allocated by Municipal Council through procurement methods and decisions that achieve best value for money.
- c. to promote procurement processes and decisions that are in compliance with applicable legislation and are consistent with the strategic objectives established for the Municipality of North Perth; and
- d. to promote procurement practices that preserve the natural environment, encourage the use of sustainable goods and services, and have regard for the accessibility of persons with disabilities.
- e. to describe the roles, responsibilities, and authorities of the Municipal' employees, officers, and elected officials in carrying out the Municipal's procurement operations.
- f. to comply with the requirements of Section 270(1) of the Municipal Act, S.O., 2001 as amended from time to time

## 3. OBJECTIVES AND GOALS

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It is the objective of the Municipality of North Perth that all Goods and/or Services be acquired on a competitive, fair, and open basis, in a manner that is efficient and accountable.

### 3.1 Objectives

To establish policies with respect to the procurement of Goods and/or Services, including policies with respect to:

- a. The types of procurement processes that shall be used.
- b. The goals to be achieved by using each type of procurement process.
- c. The circumstances under which each type of procurement process shall be used.
- d. How the integrity of each procurement process will be maintained.
- e. How the interests of the Municipality or local board, as the case may be, the public and persons participating in a procurement process will be protected.
- f. How and when the procurement processes will be reviewed to evaluate their effectiveness.
- g. And any other prescribed matter.

### 3.2 Goals

- a. **Efficient/Effective Procurement** - To procure by purchase, rental, or lease the required quality and quantity of Goods and/or Services, including professional and consulting services, from qualified suppliers, in the most efficient and cost-effective manner possible in the circumstances.
- b. **Open Competitive Process** - To encourage open competitive bidding for the acquisition or disposal of all Goods and/or Services.
- c. **Transparency and Accountability** - To ensure that the procurement process is undertaken based on a clear definition of the product or service required and a clear outline of the criteria used in the evaluation. With regard to quotation and tender, the decision to choose the low bidder will be based solely on the requirements as documented, the bidder's document and the evaluation criteria. Total project costs

will be considered including, but not limited to, training, maintenance, quality, warranty, payment terms, conversion costs and trade-in value.

- d. **Fair** - The procurement process will be fair, such that no action is undertaken by any Employee or Elected Official to allow any given bidder an unfair advantage or disadvantage.
- e. **Accessibility** - The Municipality is committed to providing equal treatment to people with disabilities with respect to the use and benefit of Municipal services, programs and goods in a manner that respects their dignity and that is equitable in relation to the broader public. In order to meet this commitment and comply with procurement requirements outlined in the Accessibility for Ontarians with Disabilities Act, 2005, O.Reg. 191/11, all departments shall ensure their contracts and tender specifications for Goods and/or Services include accessibility criteria and features.

## 4. GENERAL

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### 4.1 Administration

All goods and services required for the purposes of the Municipality, save and except only those goods and services set out in Appendix C to this by-law, shall be purchased by the Municipality or any of its officers, agents, and employees in accordance with the provisions of this by-law.

Appendices "A", "B", "C", "D" and "E" attached hereto form part of this policy.

Purchasing procedures developed by the Procurement Officer and/or Department Heads and approved by the CAO/Treasurer, are to be used as a guideline in compliance with this by-law and any related legislation.

In this By-law, unless the context requires otherwise, words importing the singular shall include the plural and words importing the masculine gender, shall include the feminine.

### 4.2 Compliance

- a. Section 270(1) of the Municipal Act 2001, S.O. 2001, c.25, as amended, requires that a Municipality shall adopt policies with respect to its procurement of goods and services. Purchasing by the Municipality is also subject to contract law, various statutes, and provisions of trade agreements (see Appendix E).
- b. No contract or purchase shall be divided to avoid any of the requirements of this policy.
- c. Purchasing will combine departmental requirements and issue the bid solicitation to achieve maximum savings.
- d. If the Procurement Officer administers a procurement process on behalf of an external agency, the procurement will be conducted in accordance with this policy.
- e. Notwithstanding the provisions of this policy, every bid document issued by the Municipality shall contain a provision that the Municipality shall have the right to reject the lowest or any bid at its absolute discretion and that the Municipality also reserves the right to reissue the bid solicitation document in its original form.
- f. Failure to comply with provisions of this policy shall be reported to the responsible Department Head. Continued non-compliance will be reported to the Municipal Treasurer and if required to the CAO.
- g. Staff cannot directly benefit from Municipal contracts.

## 5. AUTHORITY TO AWARD

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Unless otherwise provided, the purchase of all Goods and/or Services shall be authorized in accordance with the provisions of Appendix A to this by-law.

Employees or officers of the Municipality identified in Appendix A (Purchasing and Document Execution Authorities) shall have the authority to execute Contracts and all other documents necessary to affect the Award or Purchase of Goods and/or Services, up to the prescribed limits, provided that the Award or Purchase and related documents have been prepared in a form that complies with this by-law

It is the responsibility of each person, whether elected or appointed official involved in the procurement process, to understand this by-law and the meaning and intent of all sections contained in this by-law.

Each employee granted prescribed authority is responsible, and therefore accountable, when authorizing a purchase in the name of the Municipality, which constitutes a commitment by the Municipality to honor the purchase of Goods and/or Services from vendors.

Upon adoption of the budget by Council, staff are authorized to use the appropriate methods of procurement outlined in this policy.

Staff may use the appropriate methods of procurement for goods and services prior to Council adopting the budget provided that the bid solicitation clearly states that the award is subject to receipt of such approvals.

Notwithstanding any other provision of this by-law, the following Awards require Council approval:

- a. Any acquisition of goods or services that is not already approved in the current year's budget, such as items requiring pre-budget approval or post-budget amendments, must be reported to Council in order to have the expenditure authorized via resolution.
- b. the recommended Award exceeds the amount of the approved budgeted for the Purchase more than 15% of the project budget to a maximum of \$75,000 for Capital or \$10,000 for Operating.
- c. the authority to Award has not been clearly delegated to staff of the Municipality.
- d. Any contract exceeding \$250,000 where the award is not being recommended to the lowest compliant bidder, with the exception of Request for Proposals.

When Council approves the awarding of a contract following a bid request or other procurement process in compliance with this policy through council resolution, it shall be deemed that pursuant to such approval the signing officers of the Municipality have authority to execute on behalf of the Municipality and all agreements required to implement the awarded contract.

## **6. ROLES and RESPONSIBILITIES**

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### **6.1 Procurement Officer**

The Procurement Officer or designate has the following responsibilities:

- a. develops, implements, and maintains administrative procedures of Goods and/or Services and provides advice and assistance to Council, the CAO, Treasurer, Department Heads and Staff regarding the procurement of Goods and/or Services.
- b. when appropriate and feasible, standardize and coordinate the procurement of Goods and/or Services for multiple service areas.
- c. acts as the Municipality's representative in the purchasing function in dealings with departments, vendors, and suppliers.
- d. troubleshoots and assists departments and staff with purchasing related problems.

- e. monitors purchasing activity for compliance with the Municipality's purchasing by-law.
- f. maintains a centralized purchasing function for the Municipality.
- g. oversees the tender, proposal, consultant selection and quote processes from inception through to completion; and
- h. monitors adherence to the provisions of this by-law and the procedures adopted for its use.
- i. provide proactive monitoring, review and management of contractual terms secured through the procurement process to ensure compliance with this by-law.
- j. review feedback from staff on the Purchasing Policy annually; and,
- k. conduct a formal policy review every five (5) years.

The purchasing function is the responsibility of the Procurement Officer or designate. It is understood and agreed that purchasing must involve, and cannot function without, the understanding and co-operation of all individual employees and such understanding and co-operation is an integral part of each person's regular duties and responsibilities.

## **6.2 Treasurer**

The Treasurer and/or Deputy Treasurer (if delegated) shall have all the necessary authority to administer this by-law and may establish purchasing procedures consistent with this by-law:

- a. Authorize the Procurement Officer to review, maintain and perform audits on Contracts as a result of Solicitation without seeking Council authority, provided the award within the scope and budget approved by Council as per the thresholds consistent with this by-law.
- b. Establish administrative procedures and policies for the implementation of this by-law.
- c. Establish, through consultation with the Procurement Officer, standards for Bid Solicitations, Contracts, and other documents.
- d. award and execute Contracts as a result of Solicitation without seeking Council authority, provided the award within the scope and budget approved by Council as per the thresholds consistent with this by-law.

## **6.3 CAO**

The CAO shall have all the necessary authority to administer this by-law and may establish purchasing procedures consistent with this by-law. This authority includes:

- a. Instruct Department Heads not to award contracts, and to submit recommendations to Council for approval, and may provide additional restrictions concerning procurement where such action is considered necessary.
- b. award and execute Contracts as a result of Solicitation without seeking Council authority, provided the award within the scope and budget approved by Council as per the thresholds consistent with this by-law.
- c. Award Contracts during the time that regular Council meetings are suspended, during a period of recess, or for an emergency, the CAO shall be authorized to award contracts as a result of a Solicitation that normally would require Council approval, provided that a report is submitted to Council, as soon as reasonably possible, setting out the details of any contract awarded pursuant to this authority.
- d. Delegate spending authority limits to designated staff in compliance with this by-law and all applicable policies.

## **6.4 Department Head**

Department Heads are responsible for and shall have the authority to:

- a. acquire or dispose of Goods and/or Services.
- b. call, receive, open and review Bids.
- c. prepare and/or approve the terms and conditions of Bid Solicitations.
- d. identify Accessibility requirements which should be part of the procurement process, as noted in AODA Accessibility Requirements, if applicable.
- e. review proposed Bid Solicitations to ensure clarity, reasonableness and quality and advise staff of suggested improvements.
- f. act on behalf of the Municipality, and from time to time, other boards, agencies, and municipalities, for the purposes of the joint Purchase of Goods and/or Services.
- g. ensure open, fair, and impartial Purchasing processes for Goods and/or Services.
- h. ensure compliance with this by-law and advise the Procurement Officer when there has been non-compliance.
- i. award and execute Contracts as a result of Solicitation without seeking Council authority, provided the award within the scope and budget approved by Council as per the thresholds consistent with this by-law.
- j. develop co-operative purchasing plans with other units of government or their agencies or public authorities, where deemed beneficial to the Municipality; and
- k. promote the standardization of Goods and/or Services, where such standardization demonstrates and supports the purposes, goals, and objectives of this by-law.

Department Heads, along with the Treasurer, may appoint in writing Department Representatives (Delegate) who shall be responsible for the Purchasing of Goods and/or Services and oversight up to the value of their prescribed authority, and shall have the following specific responsibilities:

- i. ensure that all Contract terms and conditions comply with the Bid Solicitation.
- ii. prepares all terms and conditions and specifications of Bid Solicitations.
- iii. manages Contracts to ensure Goods and/or Services are received by the Municipality and comply with Contract terms and conditions.
- iv. monitors all Contract expenditures and ensure that all financial limitations have been complied with and that all accounts are paid within the times set out in the Contract.
- v. monitors the performance of Suppliers.
- vi. implements financial controls that meet audit requirements of the Municipality to ensure that those responsible for requisitioning and purchasing Goods and/or Services are held accountable for their decisions.
- vii. standardize the use of Goods and/or Services, where such standardization demonstrates and supports the purposes, goals, and objectives of this By-law; and
- viii. ensures that all Goods and/or Services Purchased have been received and invoices coded in a timely fashion.

## **6.5 Council**

- a. In accordance with best practices in Municipal procurement, there is a need for a clear separation of political and administrative functions in relation to the Municipality's procurement of goods, services, and construction.
- b. It is the role of Council to establish Policy and approve expenditures through the Municipality's budget process.
- c. Through this Policy, Council delegates authority to Municipal employees to incur expenditures in accordance with approved budgets through the procurement of goods, services, and construction in accordance with the rules and requirements set out herein.
- d. To avoid the potential appearance of bias or political influence in procurement contract award decisions, members of Council shall have no involvement in the competitive procurement processes from the time those procurement processes have been initiated through the advertisement or issuance of the solicitation document until a Contract has been entered into with the successful bidder, except

where Council is required to approve the Contract award in accordance with the provisions of this Policy.

The Procurement Officer shall monitor adherence to the provisions of this by-law.

## **7. PROCUREMENT GUIDELINES**

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### **7.1 Confidentiality**

There shall be no informal contact between Municipal staff or elected officials involved in the procurement process with potential suppliers during the evaluation period.

### **7.2 Open Market Purchasing**

Except as otherwise stipulated, any Procurement shall be made on a competitive basis, in keeping with accepted public purchasing practices and in accordance with applicable federal, provincial, and municipal laws.

### **7.3 Splitting of Purchase Prohibited**

Where Goods and/or Services are required in connection with one project, all of those Goods and/or Services shall be included in determining the total cost for the purposes of this by-law and no requirement for Goods and/or Services shall be divided to avoid any provision of this by-law.

### **7.4 All Costs Considered**

All purchasing shall be completed in a manner that considers all factors in evaluating bid submissions from responsive and responsible bidders, rather than a manner that bases a decision solely on the lowest bid price including ongoing cost commitments. Dollar amounts shown in this by-law setting parameters for the purchasing process, except as otherwise stated, shall be the total cost excluding applicable taxes and freight.

### **7.5 Sustainable Procurement**

Through Acquisitions, municipal staff are encouraged to seek ways of enhancing environmental sustainability by incorporating green procurement requirements where possible, practical, and feasible.

### **7.6 Risk Management**

The Department Head and the Procurement Officer shall select the appropriate means to guarantee execution and performance of a contract. Means may include, but are not limited to, financial bonds or other forms of security deposits, provisions for liquidated damages, progress payments, and/or holdbacks. Appropriate guarantees will be set out in the bid specifications or Bid Solicitation as required.

Prior to commencement of work and were deemed appropriate, evidence of insurance coverage satisfactory to the Procurement Officer, must be obtained, ensuring indemnification of the Municipality of North Perth from any and all claims, demands, losses, costs, or damages resulting from the performance of a supplier's obligations under a contract. The Municipality is to be added and shown as an Additional Insured under Liability. A certificate of insurance must be submitted through the Municipality's e-bidding system/Alternate for approval, prior to commencement of any service or work.

The type of insurance required will be relevant to the type of project. Bid Documents will outline the specific insurance minimums and requirement(s).

WSIB Certificates of Clearance must be submitted through the Municipality's e-bidding system prior to the commencement of a project and must comply with Provincial regulations. Prior to final payment to a supplier, a WSIB Certificate of Clearance shall be obtained ensuring all premiums or levies have been paid to the Board to date.

## 7.7 Bid Security

Bid deposits shall be required to accompany bid submissions for the following circumstances:

- a. All bids for municipal construction projects in excess of \$100,000.00 excluding taxes.
- b. Special contracts or scope of work as deemed appropriate by the Department Head.
- c. For estimated expenditures less than \$100,000.00, the Department Head shall determine the amount of the bid deposit.
- d. Bid deposits shall be no less than 10% of the bid amount (excluding tax), or in the absence of this, 10% of the estimated project budget.
- e. A bid deposit shall be provided in one of the following formats:
  - A bid bond or an agreement to bond issued by a bonding agency currently licensed to operate in the Province of Ontario naming The Corporation of the Municipality of North Perth as the obligee.
  - A certified cheque made payable to The Municipality of North Perth.

When a Digitized Bid Bond is required, bidders shall scan and upload a copy of the Paper Bid bond and shall be submitted with your electronic submission through [www.bidsandtenders.ca](http://www.bidsandtenders.ca).

Digitized Bonds should be third party authenticated by a firm used by the Ontario Surety. All instruction details for accessing authentication should be included with the submitted Bond.

Bonds shall be issued by reputable Bonding Companies, licensed to carry on business in Ontario. Bid bonds must be irrevocable and open for bid acceptance for at least **sixty (60) days** from the date of bid opening.

The Municipality is authorized to cash and deposit any bid deposit in the Municipalities possession that is forfeited as a result of non-compliance with any of the terms, conditions and/or specifications of a sealed bid.

The Municipality reserves the right to request a bid deposit also be used as a financial guarantee by the successful bidder as applicable to the bid document

## 7.8 Bonding Requirements

Agreement to Bond, Performance, labour, and material, and/or maintenance bonds are required for all construction projects exceeding \$100,000 for a minimum of 50% of the bid amount. The cost for bonding is to be included in the submission price.

The performance bond is used to guarantee the substantial performance of the contract. The labour and material bond are used to guarantee that subcontractors and suppliers are paid by the contractor performing the contract.

A Bond can be either a certified cheque, or bonding documents issued by an approved Guarantee Company properly licenced in the Province of Ontario, on Canadian Construction Documents Committee (CCDC) bond forms or similar recognized form of agreement acceptable to the Municipality.



## 8. PROCUREMENT PROCESS

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The Municipality of North Perth utilizes BIDS & TENDERS for all Procurement Requests, unless otherwise stipulated. Bidders can submit bids on proposals by signing up as a Vendor at [www.bidsandtenders.ca](http://www.bidsandtenders.ca).

Where Applicable, each of the procurement methods set out below shall be undertaken in compliance with the following process:

- a. The scope of the goods and service(s) or construction shall be clearly and extensively defined in the Bid Call Document.
- b. The Bid Call Document shall be, to the extent possible, standardized using common forms and processes.
- c. The Solicitation shall be posted to Bids and Tenders (except for Low Dollar Value, Informal Quotes and Single Source) to ensure the best, most comprehensive, and competitive response to the Solicitation.
- d. Advertising of a Solicitation shall be in compliance with, Canadian Free Trade Agreement (CFTA) and other Agreements having jurisdiction, as amended.
- e. Bids shall be received electronically unless otherwise stipulated.
- f. Bids shall be reviewed and/or evaluated using an open, fair, and transparent process within the circumstances of the particular Solicitation.
- g. All Bid Call Documents shall clearly set out the requirements for the price element of the Bid Call Document, specifying whether the bid price is submitted on a unit price or subtotal or total price basis and whether it is net of any taxes.
- h. Bids shall be awarded based on the terms and conditions clearly specified in the Bid Call Document.
- i. Bids received shall be opened and the Suppliers name and the Bid amount(s) shall be read aloud and recorded unless the contents of a Bid require validation, in which case the Bid will be reserved.
- j. When only one (1) Bid is received, only the Supplier's name shall be read aloud. The Bid amount shall not be read aloud.
- k. If the reserved Bid is determined to be valid, a continuation of the Bid opening will be scheduled. If the reserved Bid is determined to be deficient, a continuation of the Bid opening will not be scheduled, and the results of the Bid opening will be posted. When the Bid Solicitation is for registration purposes, only the Supplier's name will be read aloud and recorded.
- l. The method of procurement for goods, service(s) and construction shall be in accordance with the methods described in this section and shall be reported, approved and the contract executed in accordance with the thresholds of this by-law.

### 8.1 Bid Dispute Resolution

Bidders shall advise the Procurement Officer, prior to the deadline of the enquiries as outlined in the Bid Document, if a Bidder needs to address any discrepancies, errors, concerns and/or omissions in the Bid Call Document, or if they have any questions or clarifications needed.

The Bidder shall provide in writing to the purchasing designate full details including times, dates, and historical information specific to the nature of the dispute claim.

After the award of the Bid, bid challenges pertaining to the above matters shall not be considered by the Municipality.

## 8.2 Bid Review Panel

In the instance of a Bid Dispute Resolution, the Municipality shall put into place a Bid Review Panel to review the Bid Dispute, and will be composed of the following member of Municipality's Staff:

- Procurement Officer or designate
- Representative from the Department requesting the Procurement of the good, service(s) or construction; and
- The Treasurer and any other party deemed appropriate by the Bid Review Panel.

The Bid Review Panel's responsibilities include but are not limited to reviewing and making decisions on:

- Bid irregularities or other issues pertaining to a Bid.
- Bid Challenges, and/or.
- Matters involving Vendor Performance or appeals, in accordance with the Appendix B - Vendor Performance Procedure of this By-Law.

The Bid Review Panel shall use Appendix D - Bid Irregularities from this by-law to determine the action that shall be taken if a Bid Irregularity exists, except for Proposal Irregularities, which shall be determined in accordance with Appendix D Proposal Irregularities to this by-law.

For bids when more than one compliant submission at the same dollar value (tied low bids) is received the Bid Review Panel will select the bidder who they believe is best suited to complete the work by means of quality of references, past working experience, or any reason deemed appropriate by the Department Head.

The Bid Review Panel shall follow the procedure outlined by the Municipality.

## 8.3 Vendor Debriefings

All requests for a formal or informal Vendor debriefing to obtain feedback on why a Bid was not successful must be received by the Municipality in writing and directed to the Procurement Officer within sixty (60) calendar days of the award notification.

Where a debrief has been requested, only information material to the bidder's submission will be discussed. This does not include ranking of the submissions or financials in relation to other submissions. Only general information regarding the quality of the submission will be discussed but no detailed numbers will be provided.

A request for a vendor debriefing will not alter an Award decision.

## 9. PROCUREMENT PROCEDURES

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### 9.1 Requirement for Approved Funds

The exercise of authority to award a Contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Budget.

Where Goods and/or Services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a Contract is subject to the following:

- a. the identification and availability of sufficient funds in appropriate accounts for the current year within the Budget.

- b. the Goods and/or Services will continue to be required in subsequent years and, in the opinion of the Department Head, or designate, the required funding can reasonably be expected to be made available; and
- c. the Contract includes a provision that the supply of Goods and/or Services in subsequent years is subject to the approval by Council of the Budget estimates to meet the proposed expenditures.

## 9.2 Approval Guidelines

Formal approval of the annual budget establishes financial approval to proceed with purchases, subject to any scheduling or priority considerations as may be deemed necessary by Council and in accordance with this By-Law.

As outlined in Appendix A – Purchasing and Documentation Execution Authorities.

## 10. PROCUREMENT METHODS

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### 10.1 Low Value Purchases (LVP)

A Department Head or Designate may procure Goods and/or Services using a Municipal-approved Credit Card or Direct Purchase if the following criteria are met or unless otherwise stipulated:

- a. the estimated total value of the Goods and/or Services is less than **\$10,000**, excluding applicable taxes and freight.
- b. it can be demonstrated the purchases were made at Fair Market Value.
- c. purchases are made in accordance with the Corporate Credit Card Policy as amended; and
- d. there is a Direct Invoice from the Supplier approved and signed by the initiating Department Head or Designate.
- e. the item is already covered under an existing contract
- f. the goods and services are for a one-time need vs. ongoing.

### 10.2 Informal Quotation(s) (IFQ)

Where the requirement for Goods and/or Services can be specified and it is estimated that the total value is **\$10,000** or more, but less than **\$50,000** excluding applicable taxes and freight, and the item/service is for a one-time need; not on going, then the initiating Department Head or Designate shall solicit and review a **minimum of three (3)** written, fax, internet, or email quotes from different bidders.

All bidders must receive the same bid criteria and instructions. Quotations must be submitted on the standard request for quotation form provided by the Purchasing Department or Equivalent. If the pricing is within the approved budget, the Department Head will proceed with the purchase.

A Request for Quotation may be called for lesser amounts if deemed beneficial by the Department Head or CAO and/or Treasurer. If only one bid is received, the Municipality may exercise the right to cancel; or proceed with direct negotiations with compliant bidder.

Department Heads shall have received informal quotes either via email or hard copy. A copy of the informal quote shall be provided to the Procurement Officer for document retention.

### 10.3 Request for Quotations (RFQ)

Where the requirement for Goods and/or Services can be specified and is estimated equal to or greater than a value of **\$50,000**, but less than **\$100,000** excluding applicable taxes and freight, and the item/service is for a one-time need; not on going, then the initiating Department Head shall issue a Request for Quotation, which includes required specifications, through Bids and Tenders.

All RFQs shall be advertised in accordance with this by-law, except where a Request for Pre-Qualification (RFPQ) has previously been conducted. In this instant, only pre-qualified Suppliers shall be notified and Bids shall only be accepted from pre-qualified Suppliers.

All RFQs shall be called, opened, and awarded in accordance with this by-law and includes terms and conditions for the Bid Solicitation. An officer of the bidding company must sign the reply.

Each E-Bid received in response to a formal Request for Quotation is reviewed for completeness and accuracy by the Procurement Officer and initiating Department Head. The Department Head will select the successful Bid.

If the selected Bid is in accordance with the specifications and terms and conditions of the Request for Quotation, and is within budget, the Department may proceed with the purchase.

All Purchases shall be authorized and executed in accordance with the Purchasing Authorities and Document Execution Authorities, respectively, as set out in Appendix A.

### 10.4 Request for Tender (RFT)

Where the requirement for Goods and/or Services can be specified and is estimated greater than a value of **\$100,000**, excluding applicable taxes and freight, a Request for Tender (RFT) shall be issued, provided that:

- a. two (2) or more sources are considered capable of supplying the Goods and/or Services; and
- b. the Goods and/or Services are adequately defined to permit the evaluation of Tenders against clearly defined criteria; and
- c. It is intended that the lowest Compliant Bid will be accepted.
- d. the Department Head, whose budget provides for the procurement, shall provide the specifications, provisions, plans and relevant information and supplemental general conditions for the Purchase.

All RFTs shall be advertised in accordance with this by-law, except where a Request for Pre-Qualification (RFPQ) has previously been conducted. In this instant, only pre-qualified Suppliers shall be notified and Bids shall only be accepted from pre-qualified Suppliers.

All RFTs shall be called, opened, and awarded in accordance with this by-law and includes terms and conditions for the Bid Solicitation. An officer of the bidding company must sign the reply.

Each E-Bid received in response to a formal Request for Tender is reviewed for completeness and accuracy by the Procurement Officer and initiating Department Head. The Department Head will select the successful Bid.

If the selected Bid is in accordance with the specifications and terms and conditions of the Request for Tender, and is within budget, the Department may proceed with the appropriate approvals for purchase to award contract.

All Purchases shall be authorized and executed in accordance with the Purchasing Authorities and Document Execution Authorities, respectively, as set out in Appendix A.

### **10.5 Request for Proposal (RFP)**

A Request for Proposal (RFP) shall be issued when one or more of the following criteria applies:

- a. the Purchase is required as a result of a particular problem, requirement, or objective.
- b. the selection of the Supplier depends more upon the effectiveness of the proposed solution, rather than the price alone; and
- c. the precise Goods and/or Services, or the specifications thereof, are not known or are not definable and it is expected that Suppliers will further define them.

Where it is not possible to prepare precise specifications, the Department Head will issue an RFP. An RFP will include evaluation criteria and weighting such as, but not limited to, qualification, experience, strategy, approach, methodology, facilities, and equipment.

The document shall clearly distinguish those requirements that are deemed mandatory or non-mandatory and shall clearly outline how these items will be evaluated. All RFPs shall be called, opened, and awarded in accordance with this by-law.

An RFP shall be reviewed by Council, at the determination of the CAO and/or Treasurer and Department Head, where the Goods and/or Services to be acquired meet one or more of the following criteria:

- I. Significant value, exceeding \$500,000.
- II. Significant public importance; and/or
- III. Significant complexity or specialization.

RFPs will be submitted through Bids and Tenders, which shall contain technical, financial, and other information as, prescribed in the E-Bid Solicitation.

All RFPs will be evaluated based on the evaluation criteria and process outlined in Bids and Tenders and the Bid Document(s).

RFPs shall be advertised in accordance with this by-law, except where a list of pre-qualified Suppliers has been compiled in accordance with this by-law.

All Purchases shall be authorized and executed in accordance with the Purchasing Authorities and Document Execution Authorities, respectively, as set out in Appendix A.

### **10.6 Request for Pre-Qualification (RFPQ)**

Department Heads may conduct a Request for Pre-Qualification (RFPQ) to develop a list of Suppliers that may be eligible to submit a Bid on subsequent Bid Solicitations or to develop a roster in accordance with this by-law.

Pre-qualification may be considered in the following circumstances:

- a. the work will require substantial project management by the Municipality and could result in a significant cost to the Municipality if the Supplier is not appropriately experienced.
- b. the Goods and/or Services to be purchased must meet national safety standards.
- c. the work involves complex, multi-disciplinary activities, specialized expertise, equipment, materials, or financial requirements.
- d. miscellaneous repairs and services as required by the Municipality such as plumbers, electricians, and drywall contractors.
- e. there could be substantial impact on the Municipality's operations if the work is not satisfactorily performed the first time; or
- f. any other circumstances deemed appropriate by the Procurement Officer or respective Department Head.

An RFPQ shall be provided to potential Suppliers establishing the criteria for pre-qualification, which may include, but are not limited to:

- I. Experience on similar work (firm and staff assigned).
- II. References provided from other customers for similar work.
- III. Verification of applicable licenses and certificates.
- IV. Health and safety policies and staff training; and
- V. Financial capability.

Supplier submissions will be evaluated and ranked. A short list of pre-qualified Suppliers will be invited to participate in the second step of the two-step Purchasing process, being a Request for Proposal or a Request for Tender.

An RFPQ is not a legal offer but only an invitation for Suppliers to make offers to the Municipality.

All RFPQs shall be conducted in accordance with submission instructions in the Bid Solicitation and this by-law.

### **10.7 Request for Expressions of Interest (EOI)**

Department Heads or Delegate may conduct a Request for Expressions of Interest (RFEOI) for the purpose of determining the availability of Suppliers, compiling a list of Suppliers, or determining potential scope of work.

An RFEOI may be used as a specific pre-condition of any method of Purchasing used by the Municipality.

The receipt of an Expression of Interest by the Municipality does not create any obligation between the potential Supplier and the Municipality.

### **10.8 Request for Information (RFI)**

A Request for Information (RFI) can be used to identify supplier interest and measure if there is enough interest to justify a full Request for Proposal Competition.

An RFI requests detailed information such as, but not limited to, company background, interested parties, what they can offer, and what they can do for the Municipality.

A reply to the RFI is required by a designated date and time to the Department Head who initiated the request and signed by an Officer authorized to legally bind the

Municipality. Any resulting bid document will be processed and advertised in accordance with this by-law.

## 10.9 Single Source Purchases

Bid Solicitations are not required for Single Source Purchases, provided any of the following conditions apply:

- a. the compatibility of a Purchase with existing equipment, product standards, facilities or service is a paramount consideration.
- b. there is an absence of competition for technical reasons and the Goods and/or Services can only be supplied by a particular Supplier and Sole Source is being recommended.
- c. an unforeseeable situation of urgency exists and the Goods and/or Services cannot be obtained in time by means of open procurement procedures.
- d. the Municipality has a rental contract with a purchase option and such purchase option is beneficial to the Municipality.
- e. for matters involving security, police matters or confidential issues, in which case a Purchase may be made in a manner that protects the confidentiality of the Supplier or the Municipality.
- f. Conducting a competitive procurement process may be determined to be impractical.
- g. Where goods and services are being purchased for purposes of testing or trial use and there is a clearly established deadline for the testing or trial period that does not exceed twelve (12) months.
- h. there are no bids in response to a Bid Solicitation; and/or
- i. the Supplier is selected from a roster for Professional Services that has been developed in accordance with this by-law.

All Purchases and related contracts shall be authorized in accordance with the Purchasing and Document Execution Authorities set out in Appendix A.

## 10.10 Direct Negotiation(s)

Notwithstanding that Direct Negotiation may be a component of another procurement process, Direct Negotiation may be used for Purchases of Goods and/or Services when any of the following criteria apply:

- a. the required Goods and/or Services are in short supply.
- b. competition is prevented due to the existence of any patent right, copyright, technical secret, or control of raw material.
- c. a Sole Source is being recommended.
- d. two (2) or more identical Bids are received.
- e. the Lowest Compliant Bid received from a competitive procurement meeting all mandatory specifications exceeds the Budget amount.
- f. the extension of an existing Contract would be more effective.
- g. only one (1) Bid is received in response to a Bid Solicitation.
- h. the Bid Solicitation process has been cancelled without Award.
- i. a roster for Professional Services has been developed in accordance with this By-law; and/or there is Council authorization to do so.

All Purchases and related contracts shall be authorized in accordance with the Purchasing and Document Execution Authorities set out in Appendix A.

## 10.11 Co-operative Bid Calls

Notwithstanding anything else contained in this by-law, the Department Head may join or participate with other units of government, as a named agency, including local boards, commissions, and agencies, in co-operative purchasing and bulk buying of Goods and/or Services, if it is in the best interests of the Municipality to do so.

All Purchases and related contracts shall be authorized in accordance with the Purchasing and Document Execution Authorities set out in Appendix A.

### **10.12 Roster for Professional or Specialized Services**

A Request for Pre-Qualification (RFPQ) or a Request for Expression of Interest (RFEOI) may be conducted for developing a roster of qualified Suppliers of Professional or Specialized Services for groups of projects requiring similar and particular expertise.

While the use of a roster is strictly optional, the associated RFPQ or RFEOI shall be conducted in accordance with the provisions of this by-law:

- a. The Department Representative shall provide to Department Head the relevant information regarding the Professional Services and required expertise.
- b. Department Representative and Department Head will prepare the RFPQ or RFEOI, inviting interested Suppliers to submit Bids.
- c. These Bids shall outline, among other things, Suppliers' qualifications, availability, recent project experience, key personnel and roles and sufficient references satisfactory to the Department Head for work of a similar nature.

An evaluation team, consisting of members of the requesting Department and of any other Department deemed beneficial, shall analyze, and evaluate the responses received based on the evaluation criteria and process outlined in Bids and Tenders to select qualified Suppliers of Professional or Specialized Services to be placed on a roster.

On subsequent projects, Suppliers of Professional or Specialized Services may be selected from the roster to submit detailed proposals in response to a Bid Solicitation, in accordance with this By-law. The requesting Department shall invite Suppliers on the roster to provide Services, using best efforts to equally distribute opportunities amongst the Suppliers on the roster.

Alternatively, a Supplier may be selected from the roster to submit a Bid for Professional or Specialized Services in accordance with this By-law.

Rosters may be updated once every three (3) years.

### **10.13 Unsolicited Proposals**

Unsolicited proposals received by the Municipality shall be reviewed by the Department Head and CAO/Treasurer. Any Procurement resulting from the receipt of an unsolicited Proposal shall comply with the provisions of this by-law. A contract resulting from an unsolicited proposal shall be awarded on a non-competitive basis only when the procurement requirements comply with the non-competitive procurement policies and procedures described herein.

### **10.14 Leasing**

In certain circumstances, it may be economically advisable for the Municipality to enter into a financing lease to acquire the rights to use capital property and equipment rather than an outright purchase.

For any lease exceeding \$100,000 excluding applicable taxes and freight, a report initiated by the Department Head, Treasurer and/or Procurement Officer shall be circulated to Council for approval.



### **10.15 Election Recess Procedures**

Where a matter, which would otherwise require Council approval pursuant to this by-law, but approval cannot be granted because approval is required:

- a. prior to the next regular scheduled Council meeting.
- b. during the recess required to conduct municipal elections; or
- c. there is a failure to obtain a quorum at a Council meeting where a contract approval was on the agenda for such a meeting

then the CAO/Treasurer and Department Head may award contracts which are the result of the circulation of a Tender/Quotation or RFP, where the recommended Bid is that of the lowest responsive Bidder (all costs considered) or where the recommended Proposal is that of the highest ranked scoring Bidder, providing in each case that the price does not exceed the approved budget.

The Department Head will report all such awards following the specific recess period at the first possible Council meeting on the contracts awarded during the specific recess period. Council will not vary any action of the contract awards made in such cases.

### **10.16 Special Circumstances - Bids**

In conjunction with the Procurement Officer and under advisement with the Treasurer, the following procurement processes shall be utilized:

Purchases that are required to respond to a Special Circumstance shall be authorized in accordance with Appendix A. Such purchases are exempt from the processes outlined under the Methods of Purchasing. However, these processes may be followed where practical to do so, and in all instances must be reported to the CAO on the following business day.

Contracts required effecting Special Circumstance purchases shall be signed in accordance with the Document Execution Authorities set out in Appendix A.

### **10.17 Emergency**

Where a situation arises requiring immediate procurement of goods or services essential to prevent serious delays in the work of any department or which might involve danger to life, health or safety of employees or the public, or to prevent damage to property, a department head and CAO/Treasurer may purchase the required goods or services notwithstanding any other provision in this policy. The CAO must be informed of this situation.

Emergency purchases will have regard to the provisions of this policy and the purchasing procedures and will be handled a swiftly and cost effectively as possible.

All such authorizations to purchase services, work or goods shall be reported to Council after the emergency is over by the Department Head responsible for the purchase.

## **11. VENDOR PERFORMANCE**

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The Department Head shall monitor and document the performance of providing Goods and/or Services with a value greater than \$50,000 annually to that Department. Vendor performance for suppliers providing Goods and/or Services with lesser values will be performed at the discretion of the Procurement Officer and/or Department Head.

Monitoring of poor performance of a vendor will be documented using the form outlined as **Appendix B – Vendor Performance** and shall advise the Procurement Officer in

writing when the performance of a Supplier has been unsatisfactory (overall rating of less than 2.0), and the vendor will be advised as such.

Such records will be maintained by the Municipality for 2 years and shall be reviewed by all Department Heads or Representatives prior to the acceptance of any Bid Solicitation. A Bid received from a vendor whose vendor performance rating is less than 2.0 will not be accepted, unless otherwise approved by CAO or Treasurer0

## **12. REPORTING**

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A summary of Award of Contracts will be provided to Council periodically as mechanism to report procurement within thresholds at a regular meeting of Council.

Reports to Council regarding procurement are required when:

- a. a contract requires authorizing signatures.
- b. Any acquisition of goods or services that is not already approved in the current year's budget, such as items requiring pre-budget approval or post-budget amendments, must be reported to Council in order to have the expenditure authorized via resolution.
- c. the acquisition exceeds the budgeted amount by 15% of the project budget to a maximum of \$75,000 for Capital or \$10,000 for Operating
- d. the authority to Award has not been clearly delegated to staff of the Municipality.
- e. Any contract exceeding \$250,000 where the award is not being recommended to the lowest compliant bidder, with the exception of Request for Proposals.
- f. the recommended Bid does not meet major specifications or original intent of budgeted item or project.
- g. before making unspecified budget expenditures.
- h. requested by Council or staff.

The report will be initiated by the requisitioning Department Head and reviewed by the CAO. The report will include background information regarding the purpose for the procurement, the circumstances requiring Council's consideration for the procurement, and, if possible, a recommendation or recommended options for Council's consideration.

Upon approval by Council, the Department Head shall authorize the purchase and/or a Contract shall be executed as authorized by Council.

## **13. DISPOSAL OF SURPLUS GOODS**

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Where any goods or equipment are considered to be obsolete or un-repairable, the Department Head shall issue a report to Council to declare the item(s) to be surplus, except where the replacement of goods has already been approved as a trade in as part of the procurement process.

Surplus items may be disposed of through formal auction, internet offering, tender, quotation, or trade-in, whichever is in the best interest of the Municipality at the discretion of the Department Head, as approved by the Treasurer to ensure all transaction meet pecuniary interest legislation.

All assets shall be accepted as is or where is and without warranty or guarantee. The new owner shall assume all risk and expense associated with these assets. An information report shall be submitted to Council annually listing all surplus items (\$) disposed of and the value obtained for each.

Where the item has limited market value, the Department Head may, to the benefit of the Municipality, dispose of the item in a manner other than the ones listed above.

Any revenue from the sale of scrap material or other items shall be credited to the appropriate account by department.

#### **14. REAL PROPERTY**

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The disposal or sale of real property shall be governed by the Municipality's current By-law to establish procedures governing the sale of real property, and any amendments thereto. The purchase of construction material and/or services used to build, renovate, repair, or improve Real Property shall be governed by this By-law.

#### **15. CONFLICT OF INTEREST GUIDELINES**

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No elected official or employee, nor any Municipality of which an elected official or employee has an interest, shall offer any Bid, or otherwise sell any goods or services to the Municipality, unless such interest is disclosed, and they do not participate in the purchasing process in any way.

No elected official or employee may purchase Goods and/or Services for personal use through the Municipality, subject to any other Municipal by-law.

No elected official or employee, nor any Municipality of which an elected official or employee has an interest, shall discuss a Bid Solicitation with a person, or any officer, employee or agent of the person who has submitted a Bid to the Municipality, unless the bid call has been awarded or for the purpose of receiving clarification.

No employee shall purchase or offer to purchase, on behalf of the Municipality, any Goods and/or Services, except in accordance with this by-law.

No employee shall bid on the sale of goods except those disposed of at arm's length by public auction, internet auction, tender or quotation.

All consultants (e.g., architects, engineers, etc.) retained by the Municipality shall disclose to the Municipality, prior to accepting an assignment, any potential conflict of interest. If such a conflict of interest does exist, the Municipality, as directed by the Department Head may, at its discretion, withhold the assignment from the consultant until the matter is resolved. And furthermore, if during the conduct of an assignment with the Municipality, a consultant is retained by another client giving rise to a potential conflict of interest, then the consultant shall so inform the Municipality.

All employees of the Municipality shall declare any Conflicts of Interest and shall have no involvement in a Bid Solicitation process where a Conflict of Interest exists, including, but not limited to:

- a. requesting the Goods and/or Services, setting the parameters of the Purchase, evaluating Bids or recommending, deciding or making Awards.
- b. direct contact with those making the purchasing decisions.

Conflict of Interest declaration will be included in all competitive bidding documents.

#### **16. CODE OF ETHICS**

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The Municipality of North Perth adopts the ethical considerations of the Code of Ethics adapted from the Ontario Public Buyer's Association in its purchasing process.

#### **17. LEGAL CLAIMS**

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No tender, proposal, or quotation will be accepted from any company, subsidiaries, sub-contractors, or individual who have a claim or instituted a legal proceeding against the Municipality or against whom the Municipality has a claim or instituted a legal proceeding with respect to any previous contract, without prior approval by Council.

## **18. ACCESS TO INFORMATION**

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The disclosure of information received relevant to the issue of bid solicitations or the award of contracts emanating from bid solicitations shall be made by the appropriate officers in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, as amended.

All records and information pertaining to tenders, proposals, and other sealed bids, which reveal a trade secret or scientific, technical, commercial, financial or other labour relations information, supplied in confidence implicitly or explicitly, shall remain confidential if the disclosure could reasonably be expected to:

- a. prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organizations.
- b. result in similar information no longer being supplied to the Municipality where it is in the public interest that similar information continues to be so supplied.
- c. result in undue loss or gain to any person, group, committee or financial institution or agency; or
- d. result in information whose disclosure could reasonably be expected to be injurious to the financial interests of the Municipality.

All Suppliers who contract with the Municipality shall adhere to or exceed the standards set in the Municipal Freedom of Information and Protection of Privacy Act or the Personal Health Information Protection Act, 2004, S.O. 2004, c. 3, Sched. A, or other relevant Ontario or federal privacy legislation or common law as may be passed or amended from time to time, as if they were agents of the Corporation as it relates to the confidential and secure treatment, including collection, use, disclosure or retention, of personal and personal health information, other confidential information of the Corporation, and all records thereof which they come into contact with in the course of performing services or providing goods to the Corporation.

A Privacy Statement, as required under The Municipal Freedom of Information and Protection of Privacy Act, will be included in all competitive bidding documents.

## **19. PURCHASING BY-LAW REVIEW**

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The Procurement Officer, in consultation with the CAO/Treasurer and Department Heads, shall conduct a detailed review of this by-law on an as-required basis, but no longer than five years following its passage.

The review is to take into consideration current and future professional practices, industry standards, market conditions, Federal/Provincial Government directions/policies, technological developments and advancements and the impact that any recommended changes may have on potential suppliers to the Municipality.

The review findings are to be reported to Council for consideration.

## **20. PURCHASING DOCUMENTATION/FORMS**

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Conflict of Interest Guidelines will be included in all competitive bidding documents.

A Privacy Statement, as required under The Municipal Freedom of Information and Protection of Privacy Act, will be included in all competitive bidding documents.

## APPENDIX A – PURCHASING AND DOCUMENTATION EXECUTION AUTHORITIES

Method of Purchasing	Dollar Range (Excluding Taxes)	Purchasing Authority*
Low Value Purchase (LVP) – non competitive bid solicitation	Up to \$10,000	Department Head or Delegate
Informal Quotations (IFQ) – non competitive bid solicitation	Greater than \$10,000 up to \$50,000	Department Head or Delegate
Request for Quotation (RFQ) - competitive bid solicitation	Greater than \$50,000 up to \$100,000	Department Head
Request for Tender (RFT) - competitive bid solicitation	Greater than \$100,000 up to \$250,000	Department Head
	Greater than \$250,000 up to \$500,000	CAO or Treasurer
	Greater than \$500,000	Council
Request for Proposal (RFP) - competitive bid solicitation	Greater than \$10,000 up to \$250,000	Department Head
	Greater than \$250,000 up to \$500,000	CAO or Treasurer
	Greater than \$500,000	Council
Direct Negotiation / Single Source or Irregular Result – non competitive bid solicitation	Greater than \$10,000 up to \$75,000	Department Head
	Greater than \$75,000 up to \$250,000	CAO or Treasurer
	Greater than \$250,000	Council

\* "Purchasing Authority" means those positions listed and includes any position which is higher in the Municipality's reporting structure. Please refer to Section 5 Authority to Award for bid specific exceptions.

## APPENDIX B - VENDOR PERFORMANCE

Report Completion Date:	
Vendor Name:	
Vendor Address:	
Vendor Phone # / Email:	
Contract # / Description	
Department Head:	
Report Completed By:	

### Performance Checklist

Mark "Yes" or "No" for each row in the following checklist. The Procurement Officer will follow up with the Department Head if selected "No" to determine whether the vendor should remain in consideration for future purchases and participation in bids. This form will be shared with the vendor in the event of any performance issues.

Did the Vendor...	Yes	No	Comment (*Required if No was Selected)
Complete the service/order on time?			
Fulfill their obligations in accordance to the RFT, RFQ, or quote? Or for an RFP as per their Proposal?			
Complete the purchase at the price submitted/quoted?			
Create any issues or make any mistakes that were potentially detrimental to the completion of the purchase?			
Work professionally with the Municipality throughout the purchase?			
Perform in a manner and at a level that you would not hesitate to utilize them again?			

### Municipality of North Perth Evaluation Matrix

Measurement Criteria	Weighting (%)	DEPARTMENT HEAD		Name of Project Manager		Name of Consultant 1		Name of Consultant 2	
		Marks	Weighted Marks	Marks	Weighted Marks	Marks	Weighted Marks	Marks	Weighted Marks
		RATING (0-5)		(0-5)		(0-5)		(0-5)	
Service Levels	25	0	0	0	0	0	0	0	0
Quality of Work	25	0	0	0	0	0	0	0	0
Staffing Qualifications	25	0	0	0	0	0	0	0	0
Municipal Experience	25	0	0	0	0	0	0	0	0
Grant Funding Success	if applicable								
Competitive Rates	if applicable								
<b>COMBINED TOTAL</b>	100	0	0	0	0	0	0	0	0
<b>RATING</b>	5	0.00	0%	0.00	0%	0.00	0%	0.00	0%

Rating	Criteria
1	Consistency falls far below expectations – Performance jeopardized the achievement of Contract Requirements, despite additional oversight.
2	Frequently misses expectations – there are several performance issues that required the Department head to provide additional oversight to ensure that contract requirements were met.
3	Mostly meets expectations – there are very minor performance issues, but vendor or service provider has otherwise met the contract requirements.
4	Consistently meets expectations – there are no performance issues and the vendor or service provider has met the contract requirements
5	Exceed Expectations – vendor or service provider has demonstrated a performance level in measurable excess of Contract Requirements
N/A	Not Applicable

\_\_\_\_\_  
DEPARTMENT HEAD – PRINT NAME

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

## **APPENDIX C - GOODS AND SERVICES EXEMPT FROM PROCUREMENT BY-LAW**

The purchasing methods described in this by-law do not apply to the following goods and services:

1. Councillor/Employee Training and Education
  - a. Registration, accommodation and tuition fees for conferences, conventions, courses, and seminars
  - b. Magazines, books, and periodicals
  - c. Memberships
  - d. Staff development or workshops
2. Refundable Councillor/Employee Expenses
  - a. Advances
  - b. Meal allowances
  - c. Travel
  - d. Miscellaneous Expenses
3. Employee/Employer's General Remittances/Expenses
  - a. Payroll Deduction Remittances
  - b. Council/Committee/Employee Remuneration
  - c. Licenses/Memberships
  - d. Debenture Payments
  - e. Grants to Agencies
  - f. Employee Group Benefits
  - g. Damage Claims
  - h. Tax Remittances
  - i. Telecommunication services & fees
4. Other
  - a. Perth County/School Boards/ MVCA Levies
  - b. Utilities
  - c. Postage
  - d. Bailiff or collection agencies
  - e. Provision of professional and skilled services to individuals as a part of approved budgets
  - f. Licensing
  - g. Any payments required to be made by the Municipality under statutory authority
  - h. Food and Beverage for Resale
  - i. Freight charges
  - j. Advertising services require in radio, television, newspaper, or magazine
  - k. All legal services and fees
  - l. Insurance Premiums
  - m. Banking Services & Fees

### APPENDIX D - BID IRREGULARITIES

For the purposes of this by-law, the following actions shall be taken regarding Bid Irregularities (as defined in this by-law).

Item	Description	Action
1	Late bid	Automatic Rejection. Electronic Bidding system shall not accept late bid submissions
2	Bid Submitted in other than the original bid form format	Automatic Rejection.
3	Bid Form not signed	Automatic Rejection. Electronic Bidding system shall not accept bids unless the bidder has checked a box confirming authority to submit a bid on behalf of the bidder.
4	All Addendum(s) not acknowledged (if issued)	Automatic Rejection. Electronic Bidding system shall not accept bids unless the bidder has checked a box confirming addendum acknowledgement.
5	Bid received by a bidder who has unresolved litigation with the Municipality	Automatic Rejection, unless at the Municipality's sole discretion.
6	Bid received by a bidder serving a suspension period, in accordance with the Vendor Performance Appendix B of this by-law	Automatic Rejection, unless at the Municipality's sole discretion.
7	Bid received by a bidder who has served the Suspension Period and the bidder cannot provide, in the Municipality's sole opinion, satisfactory evidence of improvement in area(s) of concern as documented on the applicable <b>Vendor Performance Evaluation</b> , in accordance with the Contractor Performance Procedure Appendix B of this by-law	Automatic Rejection, unless at the Municipality's sole discretion.
8	Bid received by a bidder that has been issued an active probation letter / notice or has received a cautionary performance rating by the Owner and the Bidder cannot provide, in the Owner's sole opinion, satisfactory evidence of improvement in area(s) of concern as documented on the applicable <b>Vendor</b>	Automatic Rejection, unless at the Municipality's sole discretion.



	<b>Performance Evaluation</b> , in accordance with the Contractor Performance Procedure Appendix B of this by-law	
9	Failure to provide Bid Deposit and/or undertaking to provide a Bid Bond.	Municipality reserves the right to disqualify the Bid.
10	Insufficient Bid Deposit	Automatic Rejection, unless in the opinion of Bid Review Panel, the insufficiency in the Bid Deposit is trivial or insignificant. Upon request by the Owner, five (5) Working Days shall be given to the Bidder to remedy
11	The Municipality is unable to verify Digital Bond(s)	Upon request by the Municipality, the Bidder shall be given five (5) Working Days to either; remedy the verification to the Municipality's satisfaction or to submit the Original Bid Deposit and/or undertaking to provide a Bond to the Municipality or the Bid shall be rejected.
12	Bidder did not attend the mandatory site meeting	Automatic Rejection
13	Other Bid Irregularities	Referred to the Bid Review Panel for review, consideration, and determination. Upon request of the Municipality, the bidder may be given five (5) working days to correct such Bid Irregularity.

All Bid Irregularities (*except where bid is automatically rejected by the electronic system*) shall be forwarded to the Bid Review Panel for review, consideration, and determination in accordance with Section 7.2 – Bid Review Panel of this By-Law.

Where, at the request of the Municipality, a bidder has been given five (5) working days to correct an irregularity, should the bidder fail to make the correction within that time period, then the bidder shall be deemed to in default and:

- The Bid shall be rejected, and the bidder's bid deposit (where applicable) shall be forfeited, retained, and applied for use by the Owner and
- At the discretion of the Bid Review Panel, the bidder may be suspended for a period of two years.

## **APPENDIX E – PROCUREMENT LEGISLATION and GUIDELINES**

Procurement processes are subject to legislation, court decisions and international trade agreements. From these, several provisions specified must be followed and have been incorporated into this policy to the extent possible. The procedures to be followed are generally consistent for all the agreements. When there are inconsistencies, the purchasing authority must select the provisions that demonstrate the highest example of openness, fairness, and transparency.

Provisions for procurement are described in each of the following (a representative and not an exhaustive list):

### **Legislation**

- Municipal Act, 2001.
- Municipal Conflict of Interest Act, 1990.
- Municipal Freedom of Information and Protection of Privacy Act, 1990.

### **Trade Agreements**

- Canadian Free Trade Agreement (CFTA)
- Comprehensive Economic Trade Agreement (CETA)
- Agreement on the Opening of Public Procurement for Ontario and Quebec (OQTCA)

### **Contract Law in Canada**

A contract is any legally enforceable agreement. Any agreement to purchase is a contract if it involves the following elements:

- a. A legal offer that is clearly defined – offers must be unambiguous, not vague
- b. Acceptance of said offer. Acceptance terms must match offer terms
- c. Legal consideration – both parties have given something of value
- d. Legal purposes – contract must be of/for legal goods and/or services
- e. Legal intention – each participant must have intended to be part of the contract
- f. Competence – or legal capacity to enter into a contract

Verbal Contracts – although legal and binding, are always vague and lack important terms and conditions; any deals should be in writing wherever possible.