



Village of Fort Simpson

POLICY & PROCEDURE MANUAL

DEPARTMENT: Financial Administration **POLICY NUMBER:** FA-006- 2018
APPROVAL DATE: **AMENDMENT DATES:**
SUBJECT: Purchasing Policy **BY COUNCIL MOTION**

1. POLICY STATEMENT:

The purpose of this Policy is to establish transparent purchasing guidelines to ensure the most cost effective and cost efficient methods are used to provide best value for the procurement of goods, services and construction for the Village of Fort Simpson.

The Village of Fort Simpson also aims to use Council’s procurement actions to encourage and support local business and support economic activity within the Village, by giving local preference, where possible, while also achieving Council’s overall “best value” objectives.

All contracts must be signed by the Mayor and/or Senior Administrative Officer (SAO) or their designated alternatives and must be in adherence with the guidelines set out in this policy.

2. DEFINITIONS:

- a. Alternative Procurement (ALTP) - the procurement of goods, services and construction without a competitive process due to certain conditions/situations.**
- b. Best Value - the bid that is determined by the Town to be in its best interests, not necessarily the lowest price bid, which is determined by evaluation of bids based on criteria or factors that may include purchase price, life cycle cost considerations, environmental and social considerations, delivery, servicing, past experience and performance, and any other criteria or factors stated in the requesting documents.**
- c. Bid - a supplier’s response to a Request for Quotation (RFQ), Tender, Request for Proposal (RFP), or Request for Expression of Interest (REI).**
- d. Local Business – a Business located within the Municipal**



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Boundary of the Village of Fort Simpson and carrying a valid and up to date Business License issued by the Village of Fort Simpson. The initial License must have been in place for six months in order to qualify for a Local Preference.

- e. **Public Request for Submission** - refers to inviting responses to tenders, request for proposals, two phase bids, request for construction, request for expression of interest and request for standing orders.
- f. **Purchaser** – a Town employee with the authority to purchase goods.
- g. **Request for Expression of Interest (REI)** - process in which suppliers are invited to propose a solution to a problem and then those chosen are asked to respond to a subsequent Request for Proposal.
- h. **Request for Quotations (RFQ)** - informally obtaining price quotations from a number of different suppliers.
- i. **Request for Proposal (RFP)** - a formal invitation to suppliers to describe how their services, methods, equipment or products can address and/or meet the needs of the Town.

Definition of “Emergency” includes:

- i. An imminent or actual danger to life, health and safety of an official or an employee while acting on behalf of the city, town or village;
- ii. An imminent or actual danger or injury or destruction of real or personal property belonging to the city, town or village;
- iii. An unexpected interruption of a public service;
- iv. An emergency as defined by the Emergency Management Act and/or the emergency plan formulated there under the city, town or village;
- v. A spill of a pollutant as contemplated by Section 5.1 of the Environmental Protection Act R.S.N.W.T. 1988, c. E-7 and by Part 8, section 193 of the Canadian Environmental Protection Act 199, c.33 and;
- vi. Issuance of a non-compliance or directive order under a statute by a Territorial or Federal authority.

3. PURCHASING GUIDELINES:

The following guidelines will be followed for the procurement of goods, services and construction for the Village:

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- a) **Up to \$5,000** – For purchases that are random in nature, purchaser will use standing offer (As and When), if one exists. Otherwise purchases may be purchased by the department using a purchase order in accordance with the guiding principles of this policy. Funds are to be clearly identified in the approved operating or capital budget.
- b) **More than \$5,000 but less than \$75,000** – Village will issue a public request for submissions, through a formal request for Quotations. Where three or more suppliers exist, purchaser will attempt to solicit at least three written quotations. Award will be to the supplier offering best value. Funds are to be clearly identified in the approved operating or capital budget.
- c) **More than \$75,000** – Village will issue a public request for submissions, through a formal request for Tender. After bids are evaluated they shall be forwarded to Council for approval. Funds are to be clearly identified in the approved operating or capital budget.

4. **GUIDING PRINCIPLES:**

- a) A standard format shall be used to ensure all required terms and conditions are included in the contract.
- b) All contracts described under Section 3. (b) & (c) will be reviewed by the SAO and approved by Council. The SAO will prepare a summary of all bids received, ensure that all required documents, deposits or other data, are checked for accuracy and present to Council. Tenders may be reviewed by the appropriate Committee or by Staff who shall recommend to Council the successful tender.
- c) Invoices for service contracts must be accompanied by the approved service contract and confirmation that services have been provided.
- d) **Single Source Supplier** - In the following circumstances, Council may approach only one supplier to provide goods or services.
 - i. There is clearly only one firm/contractor available when all factors and pertinent policies are taken into account; and/or
 - ii. The work is one of pressing emergency (see definition section) in which delay would be injurious to the public interest.



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- iii. This decision should be duly recorded with justification for selection of the sole source supplier.
- e) **Emergency Situation-** In event of an emergency, the SAO has the authority to expend whatever funds are reasonably necessary to deal with the situation. Prior to expending or committing such funds, the SAO will attempt to contact the Mayor or Deputy Mayor, advise him/her of the nature of the emergency and the amount of funds to be committed or expended and obtain direction with which to proceed. Any such expenditure or commitment must be reported to Council at the earliest opportunity.
- f) **Local Purchase Preference**
 - a. **All purchases (product or service), less than \$5,000.00 shall be made from local businesses, provided the local business is able to provide the required product or service.**
 - b. **For purchases (product or service), in excess of \$5,000.00, a purchase preference shall be provided to local businesses which shall not exceed ten (10%) percent over the price which a purchase could be obtained from a business other than a local business, provided the local business is able to provide the required product or service.**
 - c. **The maximum local purchase preference which can be extended to any local business for any purchase (goods or services), an RFQ or RFP shall be 10% and the dollar amount is capped at \$10,000.00.**
 - d. **For major construction contracts, the maximum local purchase preference which can be extended to any local business shall be 10% and the dollar amount is capped at \$25,000.**

Example 1

A tender for the supply of goods and services attracts the following bids:

Bid A of \$92,000 (net cost) is received from a non-local supplier, which is using non-local supplies and services. No price preference discount applies.

Bid B of \$102,100 (net cost) is received from a local supplier within the Village. A 10% price preference discount applies to the net cost, but is capped at \$10,000 for comparison purposes.



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The local price preference discount is applied as follows:

TENDERS RECEIVED	PREFERENCE	TOTAL BID FOR EVALUATION ONLY
Bid A - (Non-Local Supplier) \$92,000	No preference is applicable	\$92,000
Bid B - (Local Supplier) \$102,100	10% is capped at \$10,000.	\$92,100

Bid A (Non-Local) is successful, subject to all other considerations being met. Price paid is \$92,000.

Example 2

A tender for a construction contract attracts the following bids:

- (a) Bid A of \$350,000 (net cost) is received from a non-local supplier, which includes local content of \$50,000. Since there is local content, a 10% price preference discount applies to the local content component of the bid. The discounted total net cost of the bid is therefore \$345,000 for comparison purposes.**
- (b) Bid B of \$369,000 is received from a local supplier. A 10% price preference discount applies to the total net cost of the bid, however the discount is limited to the capped discount of \$25,000. The total discounted net cost of the bid becomes \$344,000 for comparison purposes.**



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The local price preference discount is applied as follows:

TENDERS RECEIVED	PREFERENCE	TOTAL BID FOR EVALUATION ONLY
Bid A - (Non-Local Supplier) \$350,000	Less 10% of \$ 50,000 = \$5,000	\$345,000
Bid B - (Local Supplier) \$369,000	10% of \$369,000 = \$36,900 BUT LIMITED TO \$25,000	\$344,000

Bid B (Local) is successful, subject to all other considerations being met. Price paid is \$369,000.

5. METHODS OF PROCUREMENT

- a. All procurement activity must be obtained through one of the following methods:
- b. Direct Purchase
 - i. For purchases of less than \$5,000, a direct purchase method (Standing Offers or "As and When") may be used.
 - ii. Breaking up of purchases to use this method to avoid quotes, tenders and proposals is not permitted.
- c. Request for Quotations (RFQs)
 - i. For purchases between \$5,000 and \$75,000, purchases may be made by getting three quotes.
 - ii. If unable to get three quotes, despite reasonable efforts, the process will be documented and the purchase may proceed based on the quotes that have been received.
 - iii. Breaking up of purchases to use this method to avoid quotes, tenders and proposals is not permitted.
- d. Requests for Proposals (RFPs)
 - i. Where in the opinion of Council a proposal would be more appropriate than a tender, the Village may acquire personal property or services through request for proposals.



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- ii. Every request for proposals must express the criteria to be used in evaluating the proposal and no criteria will be used in evaluating the proposal that is not expressed in the request for proposals.
- iii. Where a contract is to be awarded as a result of a request for proposals, it will be awarded to the proposer who will provide the best value for the Village and according to the evaluation criteria in the request for proposals.
- iv. Council reserves the right to reject any or all proposals, and to enter into negotiations with any one submitting a proposal.

Tender

- v. A formal invitation to solicit competitive bids. Used when detailed specifications are available that permit the evaluation of tenders against clearly stated criteria. A request for tenders is a formal, competitive sealed bidding process. Bid deposits and performance security may be required. The award is normally to the lowest bid received from a qualified bidder meeting the requirements of the tender and providing best value. Tenders must be opened in the presence of at least one elected official and the SAO or his/her delegate at a time and location that is open to the public.
- vi. The Village reserves the right to accept or reject any or all tenders and to waive irregularities and informalities at its discretion.
- vii. The Village reserves the right to accept a tender other than the lowest tender without stating reasons.
- viii. By the act of submitting its bid, the Bidder waives the right to contest in any legal proceeding or action the right of the Village to award the work to whomever it chooses and may consider the following and other factors:
 1. Any past experience with the Bidder, or lack thereof,
 2. The results of any reference check done by the Village
 3. Information relating to the financial state of the Bidder, however obtained, or
 4. Relative length of construction schedule.
- ix. Council reserves the right to offer three (3) options when tendering;
 1. Service contract only with materials supplied by the Town
 2. Supply of service and materials by the contractor; and
 3. Supply of materials by the contractor.
- x. Advertisements for Tenders will be advertised locally, in northern newspapers, and posted in a public place within the Village, unless otherwise authorized by Council.
- xi. Requests for tenders shall state that the competition will close at a specified local time, on a specified day and at a specified location.



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- xii. At the request of a prospective bidder, the following information shall be supplied for each tender:
 - 1. A minimum of one copy of the official tender form consisting of specifications, conditions, pricing sections and signing age.
 - 2. One standard tender envelope.
 - 3. Tendering material, i.e. specifications, plans, profile.
- ii. A list of prospective bidders, who receive tender competition packages, shall be maintained by the SAO.
- iii. All replies to tenders will be directed to the SAO on or before the competition closing time and date.
- iv. The SAO shall ensure that as tenders are accepted, the envelopes are date stamped, initialed and kept in a locked safe or cabinet until the date and time fixed for tender opening.
- v. Tenders received after the competition closing date and time shall not be accepted.
 - 1. The late submission shall be time stamped, recorded and returned to the bidder unopened.
 - 2. The time as determined by the SAO shall for all purposes be deemed conclusive.
- vi. A prospective bidder who has submitted a tender may request that his tender be withdrawn. The withdrawal shall be allowed if the request is made prior to the competition closing date and time.
- vii. The SAO will, at the date and time specified for opening of tenders ensure that in the presence of at least one senior officer from the Village and in the presence of those bidders who care to attend the opening, open all tenders and record the details of each bid received.
- viii. In the event that a tender is rejected the following shall occur:
 - 1. The bidder shall be advised in writing as to the reason for the rejection of the tender;
 - 2. The report to Council shall include the rejected bidder and the reason for rejection of the tender.
- ix. Council shall at a regular or special meeting award the contract, as early as practical, after the closing date of the tender.
- x. The SAO may make available to qualified bidders, on written request;
 - 1. The names of persons tendering on contracts;
 - 2. The amount(s) of the tender (at the tender opening or following the award of a contract); and
 - 3. An explanation (where applicable) of why the contract was not awarded to the lowest bidder.



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6. Bid, Performance, Maintenance or Security Bond

- a. Council may, by resolution, require that tendered contracts be subjected to a bid, performance, labor and material, maintenance or security bond made in the favor of the Village, where it is deemed to be in the public interest to do so.
- b. In the case of tenders with a value of less than \$100,000, no security is required to accompany the tender; however, the Village may require security upon award of the contract in accordance with this section.
- c. In the case of tenders with a value of greater than \$100,000, security is required to accompany the tender in form of either;
 - xi. A bid bond or surety in a form made in the favor of the Village, approved by the Village and issued by an approved bonding company in the amount of at least ten (10%) percent of the tender; or
 - xii. The bidder may provide by way of a security deposit, a "certified cheque" or "letter of irrevocable guarantee" of ten (10%) percent made in the favor of the Village of the tendered price.
- b. The security deposit referred to in this policy, will be forfeited to the Village if the bidder refuses to enter into a contract when called upon to do so.
- c. Council may, if it is in the public interest, waive the right of the Village to require the bidder to forfeit the security deposit, but reserves the rights to recover mitigated damages.
- d. Upon notification of acceptance of a tender by the Village for an amount in excess of \$100,00, the bidder shall furnish within 14 days of the notification of acceptance:
- e. A performance bond and a labour and materials bond each in the amount that is equal to but not less than fifty (50%) percent of the tendered amount'
- f. A security deposit in an amount that is equal to ten (10%) percent of the tendered amount; or
- g. Other security as deemed appropriate by Council.
- h. A performance bond and a labour and material bond referred to in this section shall be in a form as approved by the Federal Treasury Board and issued by a bonding or surety company that is approved by the Town.
- i. A security deposit referred to in this bylaw, shall be in the form of a "letter of irrevocable guarantee" in the form authorized by the Village, payable to the Village that is drawn on a bank to which the Bank Act or the Quebec Savings Bank Act applies, or a certified cheque or bank draft from a bank acceptable to the Community Government and made payable to the Village.



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- j. Council reserves the right to recover liquidated damages for work not completed in a timely fashion.
- k. Unless otherwise stated as a special condition of the contract, the standard hold back of payment for work in progress or material on site, will be fifteen (10%) percent of the work done to date.
- l. The SAO shall ensure records are kept of all invitations to tender issued and all bids received.
- m. Progress and/or final payments for goods or services will be made by the Village to contractors or other agencies upon approval of the work;
- n. As payment for work in progress or for placing materials on site.
- o. When called for as a specific condition of contract.
- p. When the contract is completed to the specifications and has been accepted by the SAO.
- q. The fifteen (15%) percent hold back on final payment will be paid to the contractor only upon approval of the SAO, who must be satisfied that all specifications and terms of the contract have been met.
- r. Where all specifications and terms of the contract have been met to the satisfaction of the Village, the fifteen (15%) percent hold back must be remitted to the contractor not later than thirty-five (35) days from the date of acceptance of final completion of contract or receipt by the Village of final clearance from the Workers Compensation Board, whichever is later.

7. Exclusion of Suppliers in Litigation

- a. The Village may, in its absolute discretion, reject a quotation, tender or proposal if the potential supplier, or any officer or director of the potential supplier is or has been engaged, either directly or indirectly through another corporation in legal action against the municipality, its elected or appointed officer and/or employees.
- b. In determining whether or not to reject a quotation, tender or proposal under this clause, the municipality shall consider whether the litigation is likely to affect the potential supplier's ability to work with the municipality, its consultants and representatives and whether the municipality's experience with the potential supplier indicates that the municipality is likely to incur increased staff and legal costs in the administration of the contract if it is awarded to the potential supplier.

8. Exclusion of Suppliers Due to Poor Performance



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- a. All individuals responsible for a contract shall document evidence and keep records where the performance of a supplier has been unsatisfactory in terms of failure to meet contract specifications, terms and conditions, health and safety regulations and all other applicable legislation.
- b. Council may prohibit an unsatisfactory supplier from participating in future contracts for a period of up to three years.

9. Cooperative Purchasing

- a. The municipality may participate with other governments or public authorities in cooperative purchasing where it is in the best interest of the municipality.
- b. The decision to award a contract in a cooperative purchasing arrangement will be made by the municipality in accordance with the authorities in this policy.
- c. The policies of the government or public authority calling the cooperative tender shall apply.

APPROVAL OF THIS POLICY:

By Council Motion #