



## By-law Number 2017-027

### A by-law to establish and adopt a Purchasing Policy for the procurement of goods and services for the County of Bruce

Section 270 (1) of the Municipal Act, 2001, as amended, provides that a municipality and a local board shall adopt policies with respect to its procurement of goods and services;

The Council for the Corporation of the County of Bruce deems it desirable to provide a purchasing policy to ensure fair, transparent and accountable purchasing.

The Council for the Corporation of the County of Bruce enacts By-law 2017-027 as follows:

#### 1.0 Goals, Objectives & Principles

##### 1.1 Goals and Objectives

- a. **Accountability:** To ensure openness, accountability and transparency while protecting the financial best interests of The County of Bruce.
- b. **Efficiency:** To maintain the flow of goods and services, product delivery, quality, in the most cost effective manner possible.
- c. **Transparency:** To ensure purchasing is completed in compliance with policies and procedures that are accessible and understandable by all parties.
- d. **Honesty:** To ensure fairness, integrity and impartiality in dealing with vendors during all aspects of the purchasing process.
- e. **Environmental Responsibility:** To encourage the procurement of “green” goods and services wherever possible within the context of Best Value and consider environmental alternatives for the purchase transaction i.e. electronic invoicing.
- f. **Understanding:** To develop a clear understanding of authority and responsibility for all County Employees in the purchasing process.

##### 1.2 Purchasing Principles

- a. **Efficient/Effective Purchasing:** All Procurement shall be completed to obtain the required quality and quantity of goods and/or services in the most efficient and cost-effective manner possible under the circumstances.

- b. **Open Process:** Requirements and evaluation criteria are clearly communicated to bidders.
- c. **Total Costs Considered:** The County will consider all costs, including, but not limited to, acquisition, operating, training, maintenance, quality, warranty, payment terms, currency exchange, disposal value and disposal costs in evaluating bid submissions.
- d. **Co-operative & Co-ordinated Purchasing:** Where the best interests of the County will be served, the County may participate in Co-operative Purchasing. Every effort shall be made wherever and whenever possible, to coordinate purchases of those goods and services that are of a common nature to Departments concerned, so as to promote lower ultimate costs of goods and services.
- e. **Document Retention:** Responses to Bid Solicitations received shall be retained for inspection by the County's auditors and appropriate County officials, in accordance with the County's Records Retention Schedule and By-Law 2011-044 or successor By-Law.
- f. **Competition:** To encourage open competitive bidding on the acquisitions of goods and services.
- g. **Health and Safety:** To ensure compliance with all health and safety regulations.
- h. **No Local or Geographical Preference:** We do not extend preferential treatment to any vendor based on geographical location, including local companies, since it limits fair and open competition for all vendors and is a detriment to obtaining the best possible value for each tax dollar. The County may mandate certain bona fide on-site response time requirements for specific situations.
- i. **Trade Agreement/Contracts:**
  - (i) Procurement by the County may be subject to the provisions of Trade Agreement/Contracts.
  - (ii) Where an applicable Trade Agreement/Contract is in conflict with this by-law, the Trade Agreement/Contract shall take precedence.
  - (iii) The Purchasing Manager shall advise Directors where a procurement action may not conform to an applicable Trade Agreement/Contract as early as possible in the procurement process.

## 2.0 References and Related Documents

- a. County of Bruce Purchasing Procedures

## 3.0 Prohibitions

### 3.1 Prohibited Actions

- a. The splitting up of purchases to circumvent this by-law's dollar limits.
- b. Acceptance of any gift, benefit, money, favour or other assistance from any supplier or potential supplier, other than that of nominal value. The County's Workplace Practices, Code of Ethics states: "the normal exchange of hospitality among persons doing business, in an amount not to exceed \$100".

- c. Asking a supplier to alter the invoice date or shipping date from what would otherwise be shown to accommodate County accounting needs.
- d. Other than the employee or other delegated individual who is the official contact person identified in the Bid Solicitation document, discussing any aspect of the Bid Solicitation with a prospective supplier from the time the Bid Solicitation document is first issued until such time as an award report has been prepared and submitted to the appropriate approval authority.
- e. Employees of the County shall not have a pecuniary interest, either directly or indirectly, in any evaluation of or contract with the County or with any person acting for the County in any contract for the supply of goods and/or services for which the County pays or is liable to pay, directly or indirectly, unless such interest has been declared. Employees of the County are required to declare any pecuniary interest, either direct or indirect, in writing, to their Director with a copy to the Director of Corporate Services indicating the specific nature of the conflict. Any conflict of interest that cannot be isolated and resolved will be reported to the Chief Administrative Officer.
- f. Suppliers, their staff members, or anyone involved in preparing bids shall not engage in any form of political or other lobbying whatsoever or seek to influence the outcome of the purchasing process or subsequent Award. This restriction extends to all of the Corporation's staff and members of Council.  
 The Corporation may reject any bid by a supplier that engages in such lobbying, without further consideration, and may terminate that Supplier's right to continue in the purchasing process.  
 During a bid solicitation process all communications shall be made through Purchasing or the Department's designate when Purchasing did not issue the Bid Solicitation. No Supplier or person acting on behalf of a Supplier or group of Suppliers, shall contact any elected official, consultant or any employee of the Corporation to attempt to seek information or to influence the Award.  
 Elected officials shall refer any inquiries about a Bid Solicitation process to the Director of Corporate Services.
- g. Accepting a bid from a County of Bruce employee, if any of the following are true:
  - (i) The employee is at or above the level of Director
  - (ii) The employee was involved in the development of the need for the work
  - (iii) The employee will be on the Evaluation Committee
- h. The employee will be in a conflict with the County's Code of Conduct or with the Collective Agreement/Contract provisions for their position or any other terms and conditions of their employment with the County.
- i. Accepting a Bid from a County of Bruce Municipal Councillor or a business he or she owns.

- j. Negotiating with a supplier, or accepts an offer from a supplier, to purchase a good or service for personal use at the same price that is being offered by the supplier to the County. This practice is called coat-tailing.

#### **4.0 Standardization**

Standardization enables multiple bidders to understand the process requirement, and to ensure that legal and insurance risks are controlled.

##### **4.1 Standardization of Documents**

- a. Standard formats and language will be developed under the direction of the Purchasing Manager, with the exception of specifications which are provided by the requesting Department.
- b. Where the County's standard documents are not being used, the document shall be provided to Purchasing for review prior to issuance or execution. Purchasing will recommend review by an outside legal entity if deemed to be in the best interest of the County.

##### **4.2 Standardization of Goods and Services**

Bruce County supports standardization among goods and services that are used on a regular basis and encourages corporate standards to be adopted where it is deemed beneficial to the County.

#### **5.0 Types of Procurement Processes**

##### **5.1 Direct Purchase: Less than \$25,000**

The Direct Purchase Process is used when goods or services are expected to cost less than \$25,000 and are required on a one time (non-repetitive) basis. It is recommended that price comparisons be requested for purchases from up to three suppliers where possible.

##### **5.2 Request for Quotation (RFQ): \$25,000 - \$75,000**

Procurement by Request for Quotation Process is used when goods or services are expected to cost more than \$25,000 but less than \$75,000, are required on a one-time (non-repetitive) basis, and the end user of the good or service has identified a clear or single solution. Sealed written quotations shall be sought from three (3) or more suppliers. All quotes must be open for a minimum of five (5) business days.

##### **5.3 Request for Tender (RFT) - \$75,000 and Greater**

A Request for Tender process is used when goods or services are expected to cost \$75,000 or greater and it is possible to obtain competitive bids based on precisely defined requirements. Tender request shall be issued only if it represents an approved budget item, or has stipulated in the Request for Tender that it is subject to Council approval. All tenders must be open for a minimum of ten (10) business days.

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

A Request for Proposal is used when the end user of the good or service does not have a precisely defined technical requirement and where there is no clear or single solution.

Professional consulting services shall be secured through a competitive Request for Proposal.

All proposals must be open for a minimum of fifteen (15) business days.

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

A Request for Information can be used to build supplier interest and to see if there are enough suppliers to justify a full bid solicitation process. A RFI may or may not lead to a formal bid process.

### **5.6 Suppliers Who Assist in Developing Specifications**

Where a Request for Information (RFI) is not used, and it is necessary to do more than seek basic information from a supplier it may be desirable to ask a potential supplier to help County staff design or develop specifications, or otherwise help define a requirement that goes beyond the normal level of service expected from a supplier. When such services are utilized the supplier will be considered as a consultant and a fee paid to the supplier based on a market competitive hourly rate.

### **5.7 Direct Negotiation**

Unless otherwise provided in accordance with the Purchasing By-law and this Policy, goods and services may be purchased using the Direct Negotiation method when one or more of the following conditions apply;

- a. The required goods and services are available from only one source (also known as sole source), by reason of the scarcity of supply in the market or the existence of exclusive rights held by any supplier or the need for compatibility with goods and services previously acquired and there are no reasonable alternatives or substitutes;
- b. An extension or renewal of the contract may only be for similar goods and services;
- c. An attempt to purchase the required goods and services has been made in good faith using a method other than Direct Negotiation within this policy, it has failed to identify a successful supplier and it is not reasonable or desirable that a further attempt to purchase the goods and services be made using a method other than Direct Negotiation;
- d. The goods and services are required as a result of an emergency, which would not reasonably permit the use of a method other than Direct Negotiation;
- e. The required goods and services are to be supplied by a particular vendor or supplier having special knowledge, skills, expertise or experience;
- f. Where the lowest bid that meets specifications or tender terms and conditions exceeds the estimated cost of the goods and services;
- g. When all bids fail to comply with the specifications or tender terms and conditions and it is impractical to retender.

With respect to RFTs and RFQs the County may enter into negotiations with the lowest compliant bidder if the price is over a reasonable budgeted amount for the project based on the cost of similar previous projects and

current market conditions. Should the County be unable to reach an agreement with the lowest compliant bidder, the County reserves the right to enter into negotiations with the next lowest compliant bidder, to cancel the bid opportunity or to present a report to Council, whichever is deemed to be in the best interest of the County.

## **5.8 Single and Sole Sourcing**

### **5.8.1 Single Sourcing**

Single Sourcing is a method of procurement whereby there is more than one vendor able to supply an award or contract awarded without a competitive bidding process.

Single Sourcing will be permitted if one or more of the following circumstances apply:

- a. The supply involves an emergency purchase.
- b. Disclosure of information in an open contract competition would breach some duty of confidentiality or compromise security.
- c. When the procurement is already covered by a lease-purchase Contract where payments are partially or totally credited to the purchase.
- d. When the required good or service is in short supply due to market conditions.
- e. When a Consultant has been used to provide a service, and additional work is required that builds upon or is dependent upon the previous work undertaken, and when it could not reasonably be determined at the time the original work was approved additional services would be required.
- f. For use of road construction or repair, the transportation costs and/or technical specifications will be taken into consideration specifically in the case of sand, stone, gravel, fill and pre-mixed concrete, and equipment rentals.

### **5.8.2 Sole Sourcing**

Sole Sourcing is a method of procurement whereby an award is issued without a competitive bidding process due to the fact that the supplier is the only source of supply for the required goods or services.

Sole Sourcing will be permitted if one or more of the following circumstances apply:

- a. A Supplier has a patent on the required product, thus creating a market monopoly.
- b. The supply relates to necessary unique replacement parts from an exclusive source of supply and there are no reasonable alternatives to the products.
- c. To maintain warranty or service Contract compliance for purchased products.

## 5.9 Provisions for Exemptions

In the event the Director has a requirement to procure goods or services, but not follow this Purchasing by-law, then he/she must complete the Purchasing Policy Suspension form, and get the approval of the CAO and Purchasing Manager. The approved suspension form must be attached to the approved invoice so payment can be made.

## 5.10 Bid Irregularities

The following list of bid irregularities should not be considered all inclusive.

The Purchasing Manager and, as may be warranted, in consultation with any or a selection of the following: respective Director, Director of Corporate Services, CAO and/or the Corporation's Solicitor, shall review irregularities not specifically listed and, acting in the best interests of the Corporation, have authority to waive such irregularities, permit correction to the irregularity or reject the submission.

BID IRREGULARITY	RESPONSE
1. Late Submissions	<ul style="list-style-type: none"> <li>Rejection, not opened or read publicly</li> <li>Submission to be returned to submitter</li> </ul>
2. Insufficient Financial Security (No bid bond/deposit or Agreement/Contract to bond or insufficient bid bond/deposit)	<ul style="list-style-type: none"> <li>Automatic Rejection for no bid deposit</li> <li>Automatic Rejection for no Agreement/Contract to bond</li> </ul>
3. Conditional Bids (Bids qualified or restricted by an attached statement)	<ul style="list-style-type: none"> <li>Automatic rejection unless, in the opinion of the Director and the Purchasing Manager, the qualification or restriction is insignificant</li> </ul>
4. Illegible or obscure Bids, non-initialed erasures, non-initialed alterations.	<ul style="list-style-type: none"> <li>Automatic rejection</li> </ul>
5. Documents, in which all necessary Addenda which have significant financial or scope implications in the opinion of the Purchasing Manager and user group, have not been acknowledged.	<ul style="list-style-type: none"> <li>Automatic rejection</li> </ul>
6. Documents in which all necessary Addenda which do not have significant financial or scope implications in the opinion of the Purchasing Manager and user group, and have not been acknowledged.	<ul style="list-style-type: none"> <li>48 hours to submit</li> </ul>
7. Bids received by bidders who did not attend mandatory site visit(s).	<ul style="list-style-type: none"> <li>Automatic rejection</li> </ul>
8. Bids received on documents other than those provided by	<ul style="list-style-type: none"> <li>Automatic rejection</li> </ul>

BID IRREGULARITY	RESPONSE
Bruce County, when specified to do so.	
9. Failure to insert the bidder's business name in the space(s) provided in the mandatory Submission Pages.	<ul style="list-style-type: none"> <li>• Automatic rejection</li> </ul>
10. Failure to include signature of the person authorized to bind the bidder in the space provided on the Tender/Proposal Form.	<ul style="list-style-type: none"> <li>• Automatic rejection</li> </ul>
11. More than one submission from the same submitter and not Identified as an alternative or optional submission and no written withdrawal notice has been received.	<ul style="list-style-type: none"> <li>• The submission package bearing the most recent date/time stamp will be considered the intended submission and the previously date/time stamped submissions will be considered withdrawn and will be returned to sender, unopened.</li> </ul>
12. Bids Containing Mathematical Errors	<ul style="list-style-type: none"> <li>a) Where the amount of an item does not agree with the extension of the estimate quantity and the tendered unit price, the unit price shall govern and both the item amount and the total tender price shall be corrected accordingly.</li> <li>b) If both the unit price and the total price are left blank, the Bid will be rejected as incomplete.</li> <li>c) If the unit price is left blank but a total price is shown for the item, the total price shall govern and the unit price shall be corrected accordingly.</li> <li>d) If the tender contains an error in addition and/or subtraction in the approved tender documentation format requested (i.e. not the additional supporting documentation supplied), the error shall be corrected and the corrected total contract price shall govern.</li> <li>e) Tenders containing prices which appear to be so unbalanced as to likely affect the interests of the County adversely will be clarified and may be rejected.</li> </ul>
13. Other minor irregularities	<ul style="list-style-type: none"> <li>• The Purchasing Manager, in conjunction with the Director of Corporate Services shall have authority to waive irregularities, which they jointly consider to be minor.</li> </ul>



## **6.0 Approval Authority**

Anyone given award approval authority under this by-law is accountable and responsible for ensuring that an approved budget exists, purchases do not violate any County, policy or statutory requirements, and they have met the audit requirements of the County.

### **6.1 Award Approval**

**Council must approve an award, when one or more of the following applies:**

- a. When Provincial or Federal government requires Council to approve.
- b. The award cannot be accommodated within an approved budget and therefore requires a budget transfer or a pre-commitment against a future year's budget.
- c. The Chief Administrative Officer or Director of Corporate Services deems it in the County's best interest that Council approve the award.
- d. Council has specifically directed that Council approve the award.
- e. When a recommendation is made to award to a vendor who did not submit the lowest tender.
- f. Where authority to award has not been expressly delegated.
- g. Any contract anticipated to be financed by debentures.
- h. Where the net revenue amount proposed for acceptance is lower than the Council approved budget.

**The Department Director is authorized to approve the following:**

An award of a Request for Tender, Quotation or Proposal regardless of the size of the expenditure, provided that the award is to the lowest bidder and the expenditure is included in the approved budget.

Based upon roles and responsibilities within their department, Directors may delegate approval authority to staff in their Departments at the levels they deem appropriate.

### **6.2 Summary of Approval Limits**

Appendix A to this By-law provides a summary of approval limits for the various procurement processes.

## **7.0 Circumstances Under Which a Bid Solicitation Process Is Not Required**

There are a number of payments made in the ordinary course of business that are considered as a transfer of funds or fulfillment of legislated requirements, and do not require a Bid Solicitation process.

The following payments shall not require a Bid Solicitation process. Other payments may also be included at the discretion of the Director of Corporate Services (unless legislation states otherwise):

### **7.1 General Expenses**

- a. Workers Safety Insurance Board Payments
- b. Payroll Deduction Remittances such as Income Tax, Unemployment Insurance Premiums, Employer Health Tax

- c. Debt principal, debenture and interest payments
- d. Sinking Fund Payments (fund set up to repay a bond when it matures)
- e. Loan and mortgage payments
- f. Licenses (e.g. vehicles, elevators, radios, and computer software)
- g. Real Property payments including purchases, leases, easements, encroachments and licenses, or the like
- h. Tax Remittances
- i. Building Lease Payments
- j. Utilities
- k. Insurance claims, damage claims, legal settlements and arbitration awards
- l. Employee/Council travel expenses
- m. Medicals, Physician Fees
- n. Grants to Agencies
- o. Petty Cash Replenishment
- p. County Charges to and from Area Municipalities
- q. Public Notices
- r. Preventative maintenance and repairs to vehicles
- s. Promotional material and supplies for County sponsored Charitable Campaigns

## **7.2 Payments to Other Organizations/Individuals**

- a. Other Municipalities
- b. Annual requisitions approved as part of the budget process to a local board or agency such as: Health Unit.
- c. Social Services agencies that provide service to the County through Service Agreement/Contracts such as Daycare and Hostel Operators.
- d. Municipal Property Assessment Corporation fees for property assessment services and support costs.
- e. Organizations on whose behalf the County has received donations and issued income tax receipts.

## **7.3 Professional and Special Services**

- a. Various transfers of financial benefit on behalf of individuals or households (such as social assistance, housing assistance, rent supplement, childcare centres, etc.).
- b. Canada Post
- c. Other Fees and Services
  - (i) Committee Fee
  - (ii) Counseling Services
  - (iii) Homemakers Services
  - (iv) Laboratory Services
  - (v) Legal Fees
  - (vi) Nursing Services
  - (vii) Specialized Services, ie. Red Cross or 211
  - (viii) Ongoing maintenance and licensing agreements for equipment such as existing computer hardware and software, telecommunications equipment, elevators and HVAC equipment

- (ix) Freight Charges
- (x) Performance/Artist's Fees
- (xi) Banking and Underwriting Services, where covered by Agreement/Contracts
- (xii) County's Agent of Record (Health Benefits)
- (xiii) County's Auditors
- (xiv) Marketing Promotion included in approved budget
- (xv) Tradeshow / Exhibit Space
- (xvi) Advertising services required in radio, television, newspapers or magazines
- (xvii) Facilitators or speakers
- (xviii) Fees related to real estate transactions such as commissions and legal fees

#### **7.4 Refundable Employee Expenses**

- a. Advances
- b. Meal Allowances
- c. Miscellaneous - Non-Travel
- d. Travel Expenses
- e. Entertainment Expenses

#### **7.5 Training and Education**

- a. Conferences
- b. Courses
- c. Conventions
- d. Magazines
- e. Memberships
- f. Periodicals
- g. Seminars
- h. Staff Development
- i. Staff Workshops
- j. Staff Reports
- k. Subscriptions

#### **7.6 National Accounts**

- a. Tires
- b. Computer Hardware
- c. Other products where the manufacturer will sell directly to the County below their resellers'/distributors' prices

#### **7.7 Flexibility to Add Additional Exempt Purchases**

The Director of Corporate Services is authorized to add similar expenditures to the list of payments in Section 7.0.

#### **8.0 Dispute Resolution**

In the event any company or person who has been involved in the bidding or purchasing process as described in this by-law identify a dispute in regards to the process followed they will be afforded a fair and transparent process to all concerned.

## **9.0 Accessibility and Procurement**

The County of Bruce is a major purchaser of goods and services. It is important that procurement processes are inclusive so that all suppliers can participate and all contracted parties are aware of the need to provide accessible goods and services.

The County of Bruce is committed to integrating accessibility into its procurement policy and procedures by:

- a. Conducting regular reviews and updates of procurement-related directives, policies, procedures, practices and standards.
- b. Including accessibility requirements in the procurement process.
- c. Reviewing feedback on the procurement process related to accessibility and taking appropriate action as needed.

## **10.0 Disposal of Surplus Goods and Real Property**

The disposal of surplus and obsolete goods shall be evaluated on a case-by-case basis. The originating Director or delegate has the authority to sell, exchange, or otherwise dispose of goods declared as surplus to the needs of the County, where it is cost effective and in the best interest of the County to do so.

## **11.0 Review Effectiveness of the Procurement Process**

### **11.1 Policy Review**

The Purchasing Manager, in consultation with a cross functional team of appropriate County staff, will conduct a detailed review of this policy within 6 months of its initial implementation, and then shall be reviewed every 24 months with any recommended amendments.

### **11.2 Factors to Be Considered During Review**

The review shall take into consideration current and future professional practices, industry standards, market conditions, recent court decisions, Federal/Provincial Government directions/policies, technological developments/advancements and sections in the policy where through application it becomes apparent that clarification is needed.

## Appendix A

### Procurement Processes and Levels of Approval Authority

**Note:** Sales taxes, excise taxes, goods and service taxes shall be excluded in determining the price of a contract for the supply of goods or services for the purpose of the relationship of the price to the pre-authorized expenditure limit.

In the case of multi-year supply and/or service contracts, the pre-authorized expenditure limit shall refer to the estimated annual expenditure under the contract.

Value Before Taxes	Procurement Process	Approval Authority to Spend	Approval Authority to Award	Report Requirement for Contract Approval
Less than \$25,000	<p><b><u>Direct Purchase</u></b>            No formal or written quotation required.            Recommended that price comparison be requested for purchases from up to three suppliers where possible.</p>	Manager, or other “delegated” staff as specifically delegated by Director	Manager, or other “delegated” staff as specifically delegated by Director	Director’s Report to Council required if total department budget exceeded
\$25,000 but less than \$75,000	<p><b><u>Request for Quotation</u></b>            Purchasing Manager is to be consulted prior to a Request for Quotation being issued greater than \$25,000.            Sealed written quotations shall be sought from three or more suppliers where possible. All quotes must be open for a minimum of five (5) business days.</p>	Manager, or other “delegated” staff as specifically delegated by Director	Manager, or other “delegated” staff as specifically delegated by Director	Director’s Report to Council required if total department budget exceeded
\$75,000 and greater	<p><b><u>Request for Tender</u></b>            Purchasing Manager and the Department Director and/or delegates prepare the RFT documents. Purchasing posts the RFT on County website and may advertise in newspaper(s).  <b>Securities may be required. Bids must be sealed.</b> All tenders must be open for a minimum of ten (10) business days.</p>	Director and/or Chief Administrative Officer	Director and/or Chief Administrative Officer	Director’s Report to Council required if total department budget exceeded

Value Before Taxes	Procurement Process	Approval Authority to Spend	Approval Authority to Award	Report Requirement for Contract Approval
N/A	<p><b><u>Request for Proposal</u></b>            In lieu of a Request for Tender or Quotation when goods and services cannot be specifically stipulated or when alternative methods are being sought to perform certain functions. For all professional consulting services. Purchasing posts the RFP on County website. All proposals must be open for a minimum of fifteen (15) business days.</p>	Director and/or Chief Administrative Officer	Director and/or Chief Administrative Officer	Director's Report to Council required if total department budget exceeded
	<p><b><u>Single and Sole Source</u></b>            There is more than one potential supplier, but a supplier is selected by a quote/tender without a Bid Solicitation or there is only one known supplier of the particular goods and/or services.</p>	Director and Purchasing Manager must pre-approve greater than \$25,000	Manager, or other "delegated" staff as specifically delegated by Director	

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