

**TOWNSHIP OF SOUTH FRONTENAC
BY-LAW 2011-76**

**A BY-LAW TO REPLACE SCHEDULE "D" of BY-LAW 2004-111 AND
ESTABLISH A NEW PROCUREMENT POLICY FOR THE TOWNSHIP.**

WHEREAS Section 270 of the Municipal Act requires municipalities to adopt certain policies for the administration of various operations within the municipality; and,

WHEREAS the Council of the Township of South Frontenac deems it expedient to update the Procurement Policy;

NOW THEREFORE THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC, BY ITS COUNCIL, HEREBY ENACTS AS FOLLOWS:

THAT:

- 1. Schedule "D"- Procurement Policy, shall be adopted, as described and attached to this By-law, and appended to By Law 2004-111**
- 2. All previous versions of Schedule "D" passed by the Township of South Frontenac, are hereby repealed.**
- 3. This by-law shall come into force and take effect on the day of its passing.**

Dated at the Township of South Frontenac this 15th day of November 2011.

Read a first and second time this 15th day of November 2011.

Read a third time and finally passed this 15th day of November 2011.

**THE CORPORATION OF THE
TOWNSHIP OF SOUTH FRONTENAC**



Gary Davison, Mayor



Wayne Orr, Clerk-Administrator

SCHEDULE "D" TO BY-LAW 2004-111
CORPORATION OF THE TOWNSHIP
OF SOUTH FRONTENAC
PROCUREMENT POLICY

Township of South Frontenac Procurement Policy

Procurement Policy Goals

1. To ensure openness, fairness, accountability and transparency while protecting the financial best interests of the Township of South Frontenac.
2. To set out guidelines for the municipality to ensure that all purchases of materials, supplies and services provide the lowest costs consistent with the required quality, service, product delivery, efficiency and effectiveness.
3. To promote and maintain the integrity of the purchasing process and protect Council, vendors and staff involved in the process by providing clear direction and accountabilities and by reviewing the policy every three years or earlier to evaluate its effectiveness.

General Provisions

No Contract for Goods, Services or Construction may be divided into two or more parts to avoid the application of the provisions of the By-Law

Purchases shall be deemed eligible for special treatment on a case-by-case basis by the CAO and/or Township Mayor.

No employee shall Purchase, on behalf of the Township of South Frontenac, any Goods, Services or Construction, except in accordance with the By-Law

Goods and services purchased outside of the provisions of this policy will not be accepted and any invoices received will not be processed for payment

Any lease financing must be undertaken in accordance with the Lease Financing Bylaw.

Where an employee involved in the Award of any Contract, either on his or her own behalf, or while acting for, by, with or through another person, has any pecuniary interest, direct or indirect, in the Contract, the employee, shall

- Immediately disclose the interest to the Department Head involved in the Award of the Contract and shall describe the general nature thereof;
- Shall not take part in the Award of the Contract; and
- Shall not attempt in any way to influence the Award of the Contract

An employee has an indirect pecuniary interest in any Contract in which the Township of South Frontenac is concerned if,

- a) the employee or his or her spouse or same-sex partner

- is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public that has a pecuniary interest in the Contract,
- has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public that has a pecuniary interest in the Contract, or
- is a member of an incorporated association or partnership, that has a pecuniary interest in the matter; or

b) the employee or his or her spouse or same-sex partner is in the employment of a person, unincorporated association or partnership that has a pecuniary interest in the Contract.

All Council members shall conduct themselves in accordance with the Municipal Conflict of Interest Act, RSO 1990, c M50 as amended.

Operational Purchases

Prior to the approval of the budget, operational purchases up to **50%** of the value of the preceding years budget may be made without Council approval. Approval shall be obtained beyond the **50%** limit.

Total Acquisition Cost

Where dollar limits are prescribed, the contract amount shall be the estimated Total Acquisition Cost before taxes, less any rebates.

Prescribed Council Approval

The following Contracts require advance approval by Council:

- a) Any contract where the Total Acquisition cost is greater than the Council Approved Budget;
- b) Any Contract greater than \$25,000, where an irregularity precludes the Award of a Contract to the supplier submitting the lowest bid;
- c) Any Contract where a Good, Service or Construction is available from only one source of supply and the total Acquisition Cost of such Good, Service or Construction exceeds \$25,000; or where a Bid Solicitation has been restricted to a single source of supply because standardization or compatibility is the overriding consideration;
- d) Any Contract where the Request for Proposal method of purchase of Goods, Services or Construction is being used and the estimated value of the Good, Service or Construction exceeds \$50,000.
- e) When any Contract is required in accordance with the Township of South Frontenac's Financing Lease Policy.

All other contracts may be awarded by staff in accordance with this policy

Responsibilities and Authorities

Department Heads shall be responsible for and shall have authority for initiating procurement activity.

Notification of Procurement Opportunities

Notification of procurement opportunities for Goods, Services or Construction exceeding a Total Acquisition Cost of \$5,000 shall be posted to the Township website and may be supplemented by other means of notification as appropriate (newspaper, trade website etc.)

Procurement Procedures

Where circumstances give rise to an issue of adherence or non-adherence to the requirements of the By-law which cannot be resolved to the satisfaction of the Department Head, the Department Head shall advise the CAO and Treasurer who shall have the authority to determine the appropriate action.

All else being equal, local suppliers will be given preference in the vendor selection process.

Purchasing Methods:

Purchases Less Than \$5,000

Purchases under \$150 are exempt from this policy

Purchases less than \$5000 may be purchased from a Vendor of Record (VOR)

When a VOR is not able to supply the required item, three quotes shall be obtained and the lowest supplier shall be selected.

Purchases Between \$5,000 and \$25,000 inclusive

When a vendor is not chosen from a VOR listing; a Request for Quotation shall be issued for purchases between \$5,000 and \$25,000 inclusive.

In appropriate circumstances, a Request for Proposal or a Request for Tender may be utilized for the purchase of Goods, Services or Construction in this range.

Purchases Exceeding \$25,000:

Request for Tender

A Request for Tender shall be used for purchases exceeding \$25,000 where the following criteria apply

- a. two or more sources are considered capable of supplying the requirement;
- b. the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria; and
- c. it is intended that the Lowest Compliant Bid will be accepted.

If the contract doesn't meet the criteria for prescribed Council approval, the department head shall forward the contract for approval by the CAO

Request for Proposal

A Request for Proposal shall be used where either of the following applies:

- a. Owing to the nature of the requirement, suppliers are invited to propose a solution to a problem, requirement or objective and the selection of the supplier is based on the effectiveness of the proposed solution rather than on price alone; or
- b. It is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement.

The Department Head shall be a member of the committee formed to evaluate the response to the Request for Proposal

The applicable Department shall establish evaluation criteria, which may include, but are not limited to, factors such as approach, equipment and facilities, experience and qualifications, methodology, past performance and scheduling, price and strategy.

The CAO may award contracts resulting from a Request for Proposal provided that

- a. The estimated Total Acquisition Cost of the Goods, Services or Construction does not exceed \$50,000;
- b. The Award is made to the supplier meeting all mandatory requirements and determined, by reference to an evaluation criteria, as providing best value;
- c. Sufficient funds are available and identified in appropriate accounts within Council Approved Budgets; and
- d. The provisions of the Procurement Policy and By-law are complied with

Vendors of Record

A VOR listing shall be compiled by staff and recommended to Council for approval on a bi-annual basis. The VOR listing shall consist of vendors who have established an acceptable business relationship with the Township. The intent of a VOR listing is to avoid the Township absorbing the administrative costs of seeking multiple and repetitive quotes. For contracted vendors, their VOR status shall be determined as contracts become due for renewal. Any VOR vendor can be removed from the list at any time for reasons that must be clearly documented. In general, the selection of a vendor as a VOR must be well documented with the rationale for the selection.

Where there are multiple VOR for a particular contract, the Department Head shall give consideration to the expertise, experience and availability of the vendor in selecting the most appropriate vendor. If all else is equal the Department Head will assign such work in such a way as to achieve equitable distribution of work between vendors.

In House Bids

Work may be assigned In House for the procurement of Goods, Services or construction in circumstances where the CAO considers it appropriate to do so.

Guarantee of Contract Execution and Performance

The need for and the amount and method of payment for a Bid Bond or Performance Bond is to be determined by the Department Head in consultation with the CAO.

Unless circumstances warrant, the standard refundable deposit to guarantee entry into a Contract, for Requests for Tenders and Requests for Proposals shall be as follows:

Estimated total Acquisition cost	Minimum Deposit required
\$25,000 or less	5%
Greater than \$25,000	10%

If a bid bond is required, prior to the commencement of the work, the successful bidder may be required to provide the following security in addition to the security referred to above

- a. A performance bond to guarantee the performance of a Contract, and
- b. A payment bond to guarantee the payment for labour and materials to be supplied in connection with a Contract.

The Department Head shall select the appropriate means to guarantee execution and performance of the Contract. Means may include one or more of, but are not limited to, certified cheque, bank draft, irrevocable letter of credit, money order and where appropriate, a bid bond issued by an approved guarantee company properly licensed in the province of Ontario, on bond forms acceptable to the Township of South Frontenac.

Prior to the commencement of work, evidence of insurance coverage satisfactory to the Department Head must be obtained, ensuring indemnification of the Township of South Frontenac from any and all claims, demands, losses, costs or damages resulting from the performance of a Bidder's obligations under the Contract and from any other risk determined by the Department Head as requiring coverage. The Township of South Frontenac shall be added to the contractor's insurance policy as an "Additional Named Insured"

Prior to commencement of work, a Certificate of Clearance from the Workplace Safety and Insurance Board shall be obtained ensuring all premiums or levies have been paid to the Workplace Safety and Insurance Board to the date of payment.

Bids in Excess of Project Estimates

Where Bids are received in response to a Bid Solicitation, but exceed project estimates, the Department Head, Treasurer and CAO, jointly may enter negotiations with the Lowest Compliant Bidder to achieve an acceptable Bid within the project estimate

Emergency Purchases

Where an Emergency exists requiring the immediate procurement of Goods, Services or Construction, the CAO may authorize purchase of the required Goods, Services or Construction by the most expedient and economical means. As soon as practicable thereafter, the CAO will present a report to Council.

Cooperative Purchasing

The Township of South Frontenac may participate with other government agencies or public authorities in cooperative purchasing where it is in the best interest of the Township of South Frontenac to do so.

The policies of the government agencies or public authorities calling the cooperative Bid Solicitation shall be the accepted policy for that particular purchase.

Identical Tenders

If the Lowest Compliant Bids from two or more bidders are identical in Total Acquisition cost or unit price, the Department Head, in conjunction with the Treasurer and CAO is authorized to enter into negotiations with the bidders who have submitted the identical price in an attempt to obtain a lesser price and shall maintain a record in respect of such negotiations.

The Department Head, CAO, or Treasurer shall not reveal information pertaining to such negotiations or the manner in which the final price was determined to any of the bidders concerned. The Department Head shall include as part of the record, a report concerning the results of such negotiations.

When negotiations are not successful in breaking the identical tenders, then the successful bidder shall be determined by coin toss. The coin toss shall be performed in the presence of the CAO, Treasurer, and Department Head in charge of that service.

Submission Irregularities

The process for administering irregularities shall be as set out in Schedule "B"

Contractual Agreement

Formal agreements shall be entered into when the resulting Contract is complex and will contain terms and conditions other than standard contractual terms and conditions.

It shall be the responsibility of the Department Head, in consultation with the Treasurer to determine if it is in the best interest of the Township of South Frontenac to establish a formal agreement with the supplier.

Where it is deemed that a formal agreement is required, the formal agreement shall be reviewed by the Department Head, CAO, Treasurer and Legal Counsel as required.

Where a formal agreement is required the CAO shall execute the agreement in the name of the Township of South Frontenac

Specialized Services

Banking, Audit, Legal, Engineering and Planning Consulting.

These services are recognized to require a combination of expertise, experience and knowledge of the Township's operations, policies and practices. Tendering

for these services will be considered on a five-year cycle. Council may renew an arrangement for the provision of these services by resolution.

Insurance

Insurance services are normally provided on an annual basis. Council may approve an annual renewal by resolution for up to five years after which insurance services shall be tendered.

Engineering Consulting

The requirements for engineering consulting services span a wide range of circumstances. Generally, for unique, high cost projects the Municipality will request written proposals for services. The criteria for selection should be identified in the request for proposals.

For long term projects, such as landfill management, where the background information and accumulated reporting is important to the understanding of the project, the Municipality may retain a consultant for the life of the project.

For small, short-term or one time constrained projects, the CAO may select a consultant and report to Council on the selection process.

For Small Assignments up to \$10,000:

The Public Works Manager (PWM) selects a consultant on a rotational basis. Together the assignment requirements and fees are developed, they are confirmed in writing, and the PWM retains the consultant.

For Mid Size Projects from \$10,000 to \$50,000

The PWM selects a consultant on a rotational basis. Together the assignment requirements and fees are developed, they are confirmed in writing, and the PWM provides a report to the CAO for Council approval to retain the consultant.

For Large Projects greater than \$50,000 or Unique Projects

The PWM invites or advertises (if very large or unique) Proposals from at least three consultants. The Proposals are evaluated and PWM provides a report to the CAO for Council approval to retain the consultant.

Employee Benefits

Quotations for the supply of employed benefits may be obtained upon the completion of negotiations of the terms of the benefit package. Council may extend by resolution the term of the benefit provider.

Sole Source Suppliers

In Municipal operations from time to time circumstances will create a sole source supplier for goods or services. Where this situation arises, the purchase of a supplier service must be provided for in the budget or approved by Council prior to budget approval.

Access to Information

The disclosure of information received relevant to the issue of Bid Solicitations or the Award of Contracts emanating from Bid Solicitations shall be in accordance with the provisions of the ***Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M56***, as amended.

Schedule A

Goods and Services "Exempt" from Provisions of the Procurement Policies

Items under \$150

Conferences, Courses, Seminars and Conventions

Memberships

Periodicals, Magazines and Subscriptions

Employee / Councillor Expenses

Professional Services

Utilities

Advertising services

Schedule B Administering Irregularities

	Irregularity	Response
1	Late Bids	Automatic rejection and not opened or read publicly
2	Bid requirements not completely met	Rejection depends on significance of bid requirements oversight
3	Restricted or qualified bids	Rejection depends on significance of bid restriction or qualification
4	Bids received on documents other than those provided by the Township	Automatic rejection
5	Corporate Seal or Authorized Signatory signature missing	48 hours to correct
6	Failure to provide security bond	Automatic rejection
7	Overwrites, strikethroughs, or erasures are not initialed	48 hours to initial
8	Documents in which addenda with financial implications have not been acknowledged	Automatic rejection
9	All other irregularities	Depending on the significance of the irregularity, the bid envelope will either be automatically rejected, 48 hours will be given to correct and initial, or the bid may be accepted with the irregularities