

The Corporation of the Town of Deep River

By-law No. 33-2010

A by-law to amend By-Law No. 6-88 to adopt a statement of policy with respect to procurement.

WHEREAS under the *Municipal Act, 2001*, S.O. 2001, c. 25, Section 248, the Council of a municipality may pass and thereafter amend a comprehensive general by-law;

AND WHEREAS on the 4th day of May, 1988, Council passed By-Law No. 6-88 to provide for a policy manual;


AND WHEREAS Council now deems it appropriate to amend By-Law No. 6-88 to adopt a revised statement of policy;

THEREFORE the Council of the Corporation of the Town of Deep River
ENACTS AS FOLLOWS:

1. By-Law No. 6-88 is hereby amended by the deleting from Schedule 'A' thereto the statement of policy numbered F17-1 and entitled "Procurement", and replacing it with the statement of policy numbered and entitled the same which is attached to this by-law as Schedule 'A'.
2. By-Law No. 34-2004 is hereby repealed.
3. This by-law comes into force upon adoption by Council of the Corporation of the Town of Deep River.

READ A FIRST AND SECOND TIME THIS 19th DAY OF MAY, 2010.

READ A THIRD TIME AND FINALLY PASSED THIS 19th DAY OF MAY, 2010.



Mayor



Acting Clerk

Schedule 'A' to By-law 33-2010
The Corporation of the Town of Deep River

STATEMENT OF POLICY
(Schedule 'A' to By-law No. 6-88)

Title: Procurement

Page 1 of 7

Number: F17-1

Effective Date: May 19, 2010

Application: This policy applies to all operations of the municipality and governs all procurement in and for the Corporation.

1 **PROCUREMENT POLICY**

1.1 Procurement decisions for materials, supplies and services should result in the lowest costs consistent with the required quality and service. To protect the interests of all concerned, the procurement decision must be based on a purchasing process which is fair and impartial, with clear accountability. Achievement of these goals is the purpose of all types of procurement.

2 **DEFINITIONS & INTERPRETATION**

For the purposes of this policy,

2.1 "Blanket Order" means the agreement wherein a vendor will sell certain items to the Town for an agreed period of time with established terms and conditions.

2.2 "Bid" means a submission from a prospective vendor in response to a request for the purchase of goods or services issued by the Town.

2.3 "Bid Deposit" means a financial guarantee to ensure the successful bidder will enter into an agreement.

2.4 "Capital item" means a non-consumable item or group of related items with a life expectancy of more than 2 years and a value in excess of \$5,000.00.

2.5 Chief Administrative Officer/Clerk - means the person occupying the position of Chief Administrative Officer/Clerk of the Town of Deep River.

2.6 "Council" means the Municipal Council of the Corporation of The Town of Deep River.

2.7 "Emergency Purchase" means a purchase made in a crisis situation where immediate action is required to prevent the possible loss of life or property.

2.8 "Formal Bid" means a sealed bid submission, whereby the bids are submitted in a sealed envelope to a specified location, by a specified date.

2.9 "Formal Quotation" means a document that sets out particular requirements for goods and/or services.

2.10 "Generic" means that no specific brand or name shall be included as part of the specifications unless such a brand or name is required to identify the intent of a purchase order or proposal.

2.11 "Informal Quotation" means a competitive bid process for goods or services that is conveyed and received from bidders in a written format by e-mail, mail or fax.



- 2.12 “Manager” means the person occupying any of the following positions in the Town of Deep River: Director of Public Works, Treasurer, Fire Chief, Manager of Planning and Development, or Manager of Recreation.
- 2.13 “Purchasing Designate” means a person designated by the Chief Administrative Officer/Clerk or Manager to exercise any or all responsibilities of the Chief Administrative Officer/Clerk or Manager with respect to this policy.
- 2.14 “Services” means items such as telephone, gas, water, hydro, janitorial and cleaning services, consultant services, legal surveys, medical and related services, insurance, leases for grounds, buildings, office or other space required by the Corporation and the rental, repair or maintenance of equipment, machinery, or other personal and real property.
- 2.15 “Supplies” means goods, wares, merchandise, material and equipment.
- 2.16 “Tender” means a document which sets out particular specifications for the commodity or service required. This can also refer to an offer in writing to execute some specified work or to provide some specified articles at a specified rate.
- 2.17 “The Corporation of The Town of Deep River” herein is also referred to as the “Town” or the “Corporation”.
- 2.18 “Vendor” means any person or enterprise supplying goods or services to the Corporation of The Town of Deep River.
- 2.19 Dollar amounts shown in this by-law setting parameters for the purchasing process, except as otherwise stated, shall be the total cost excluding taxes and freight.

3 PURCHASING RESPONSIBILITIES

- 3.1 Expenditure Authorization
 - 3.1.1 Deep River Council has ultimate authority for all expenditures. Council exercises this authority by the approval of budgets or by specific resolution. Purchases not covered by such approval are not authorized.
- 3.2 Chief Administrative Officer/Clerk Authorization and Responsibilities
 - 3.2.1 The Chief Administrative Officer/Clerk is responsible and accountable for purchase expenditures within the Town.
 - 3.2.2 Subject to this section, the Chief Administrative Officer/Clerk may appoint one or more Managers to exercise purchasing functions.
 - 3.2.3 The Chief Administrative Officer/Clerk may appoint a Purchasing Designate to exercise any purchasing functions.
- 3.3 Manager Authorization and Responsibilities
 - 3.3.1 The Chief Administrative Officer/Clerk and/or Manager may make purchases of goods and services up to a value of \$5,000 from such vendors and upon such terms and conditions as they deem appropriate.
- 3.4 Compliance with Policy
 - 3.4.1 No employee or elected official shall purchase or offer to purchase, on behalf of the Town, any goods and services, except in accordance with this Policy.

4 PURCHASING MECHANISMS

4.1 Informal Quotation Purchases

4.1.1 The Chief Administrative Officer/Clerk and/or Manager are authorized to make purchases of non-capital goods and services with estimated values between \$5,000 and \$25,000 from such vendors and upon such terms and conditions as the Chief Administrative Officer/Clerk deems appropriate subject to first obtaining at least three (3) written informal quotations. Specifications and bids may be communicated by e-mail, mail and/or fax.

4.2 Formal Quotation Purchases

4.2.1 The Chief Administrative Officer/Clerk and/or Manager are authorized to make purchases for capital items up to \$50,000, or for goods and services with estimated values between \$25,000 and \$50,000, without requesting and obtaining sealed tenders for the goods and services unless specifically required to do so by a resolution of Council for a particular transaction. At least three (3) formal bids must be obtained.

4.2.2 When the preferred Quotation exceeds the approved budget appropriation by 10% or more, the Chief Administrative Officer/Clerk and/or Manager shall submit an Issue Report to Council for direction.

4.3 Tender Purchases

4.3.1 The Chief Administrative Officer/Clerk and/or Manager shall not order goods or services exceeding \$50,000 without requesting and obtaining sealed tenders for the goods and services unless specifically authorized to do so by a resolution of Council for a particular transaction. At least three (3) sealed tenders must be obtained.

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

4.3.2.1 Purchases for the supply and placement of road material in Town of Deep River in excess of \$50,000 but not exceeding \$100,000 when clearly identified in the budget.

4.3.2.2 Purchases for consulting services for a program where services (i.e. bridge inspection/evaluation) have been awarded to a consulting firm on an on-going basis when clearly identified in the budget.

4.3.2.3 Purchase of replacement parts where the original equipment manufacturer (OEM) is the sole provider of that equipment (i.e. transmission for Champion road grader).

4.3.2.4 Purchases where there is only one source of supply. In such cases the Chief Administrative Officer/Clerk and/or Manager shall submit an Information Report to Council.

4.4 REQUESTS FOR PROPOSALS

4.4.1 The Chief Administrative Officer/Clerk and/or Manager may use a Request for Proposal in place of a tender or quotation when goods or services cannot be specifically stipulated or when alternative methods are being sought to perform certain functions or services.

4.4.2 For estimated expenditures not exceeding \$50,000, the evaluation criteria and process shall be approved by the Chief Administrative Officer/Clerk prior to the issuance of the Request for Proposal. For expenditures exceeding \$50,000, the evaluation criteria and process shall be approved by Council resolution prior to the issuance of the Request for Proposal.

4.4.3 When the preferred proposal (i) exceeds the approved budget appropriation by 10% or more and/or (ii) exceeds \$50,000, the Chief Administrative Officer/Clerk shall submit an Issue Report to Council for direction.

5 BID CLOSING AND OPENING

- 5.1 In circumstances where sealed bids are submitted, and the purchases are estimated to exceed \$25,000 in value, the bids will be opened publicly at a predetermined time and place, and reasonable notice of same will be provided to bidders.

6 CONDITIONS APPLICABLE TO ALL BID SUBMISSIONS

- 6.1 The following conditions apply to all bid submissions whether they are formal or informal:

- 6.1.1 Bid documents must be submitted and received in the manner as specified in the bid document.
- 6.1.2 Bids received later than the specified closing date and time will be rejected and, where appropriate, returned to the bidder. In the case of sealed bids, the bid will be returned to the bidder unopened.
- 6.1.3 A bidder who has already submitted a bid may submit a further bid at any time up to the official closing time. The last bid received will supersede and invalidate all bids previously received by that bidder.
- 6.1.4 A bidder may withdraw a submitted bid at any time up to the official closing time by submission in writing with an original authorized signature. Fax or email withdrawals are not valid.
- 6.1.5 The Chief Administrative Officer/Clerk and/or Manager will document the receipt of all submissions for purchases over \$5,000 including the bidder's name and the date and time of the receipt of bid.

- 6.2 Bids which are incomplete, conditional or obscure, or which contain additions not called for, erasures, alterations or irregularities of any kind, or which do not comply with the bid requirements or which do not meet specification requirements may be rejected.

7 BLANKET ORDERS

- 7.1 The Chief Administrative Officer/Clerk and/or Manager may establish Blanket Orders using the applicable bid mechanism based upon the estimated annual expenditure.
- 7.2 In the case of equipment repairs and equipment rentals for amounts not exceeding \$20,000, the Chief Administrative Officer/Clerk and/or Manager are authorized to select vendors not solely on the basis of cost, but also on ability, quality of workmanship, service, availability, overall performance and experience without first obtaining quotations.
- 7.3 Blanket Orders shall be issued for a specific time period.

8 EMERGENCY PURCHASES

- 8.1 The Chief Administrative Officer/Clerk and/or Manager are authorized to make emergency purchases in excess of \$5,000. The Chief Administrative Officer/Clerk and/or Manager shall present an Information Report to Council at its next meeting.

9 PURCHASE BY NEGOTIATION

- 9.1 The Chief Administrative Officer/Clerk and/or Manager may purchase by negotiation with one or more vendors, and the formal bid process may be waived, under the following conditions:
- 9.1.1 When in the judgment of the Chief Administrative Officer/Clerk that the market conditions and short supply of goods dictate that the delay associated with the formal bid process would be injurious to the Town's interest.
- 9.1.2 When there is only one source of supply.
- 9.1.3 When two or more identical bids have been received, provided that the Chief Administrative Officer/Clerk and/or Manager shall negotiate only with the tied bidders.

- 9.1.4 When the lowest bid meeting specifications exceeds the estimated costs by at least 10% and it is not viable or in the best interest of the Town.

10 EXCEPTIONS

- 10.1 The Chief Administrative Officer/Clerk may request exemption from any or all the purchasing methods outlined in this policy by submission of an Issue Report requesting the same to Council. Such exemption may be granted by resolution.

11 EXCLUSIONS

- 11.1 Competitive bids shall not be required for goods or services provided by utilities or government agencies, or for the following type of expenditures:
 - 11.1.1 traveling expenses, meals, conferences, seminars, memberships, subscriptions, medical examinations, licenses, in-house services and any other goods or services approved by Council.

12 ADVERTISING

- 12.1 Where effective in the opinion of the Chief Administrative Officer/Clerk and/or Manager, information regarding the bid document shall be advertised in the North Renfrew Times and/or applicable publications necessary to comply with statutory regulations. Any requirement exceeding \$100,000 must be advertised, and shall also be posted on the Town of Deep River website.

13 BID DEPOSITS

- 13.1 Bid deposits shall be required to accompany bid submissions for the following circumstances:
 - 13.1.1 All bids for municipal construction projects in excess of \$50,000.
 - 13.1.2 Other special contracts as deemed appropriate by the Chief Administrative Officer/Clerk .
- 13.2 For estimated expenditures less than \$100,000, the Chief Administrative Officer/Clerk shall determine the amount of the bid deposit.
- 13.3 Bid deposits shall be no less than 5% of the estimated value of the work prior to bidding or an amount equal to a minimum of 5% of the bid submitted. For estimated expenditures greater than \$100,000, the minimum bid deposit required shall be 10%.
- 13.4 A bid deposits shall be provided in one of the following formats:
 - 13.4.1 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 Town of Deep River as the obligee
 - 13.4.2 A certified cheque made payable to The Corporation of the Town of Deep River
 - 13.4.3 An irrevocable letter of credit naming The Corporation of The Town of Deep River as the beneficiary
 - 13.4.4 Money orders made payable to The Corporation of The Town of Deep River
 - 13.4.5 Canadian currency
- 13.5 The Town does not pay interest on any bid deposits.
- 13.6 All bid deposits must be original documentation, signed and sealed as appropriate. No faxed or photocopies will be accepted.
- 13.7 The Town is authorized to cash and deposit any bid deposit in the Town's possession that is forfeited as a result of non-compliance with any of the terms, conditions and/or specifications of a sealed bid.

14 PERFORMANCE GUARANTEE REQUIREMENTS

- 14.1 Performance, labour and material and/or maintenance guarantees for a minimum of 50% of the bid amount are required for all construction projects exceeding \$100,000. Such guarantees shall be in the form of an irrevocable letter of credit naming The Corporation of The Town of Deep River as the beneficiary.

15 INSURANCE

- 15.1 The standard insurance minimums are as follows:
\$2 million – general liability policy
\$2 million - automobile liability policy
\$2 million – homeowners (e.g. for rental of facilities)
\$5 million – general liability and automobile liability policies – for contract work done for most Public Works and Environmental Services Department projects
\$2 million – professional errors and omissions liability
Builder’s Risk – the amount of the project cost
Bid documents must clearly indicate insurance requirements to be provided by the successful bidder.

- 15.2 The successful bidder must furnish the Town at his/her cost a “certified copy” of a liability insurance policy covering public liability and property damage for no less than the minimum amounts stated in 15.1 to the satisfaction of the Town and in force for the entire contract period. The policy must contain:

- 15.2.1 a “Cross Liability” clause or endorsement;
15.2.2 an endorsement certifying that The Corporation of The Town of Deep River is included as an additional named insured;
15.2.3 an endorsement to the effect that the policy or policies will not be altered, cancelled or allowed to lapse without thirty days prior written notice to the Town of Deep River.

- 15.3 Contractor’s Liability Insurance Policy shall not contain any exclusions of liability for damage, etc. to property, building or land arising from:

- 15.3.1 the removal or weakening of support of any property, building or land whether such support be natural or otherwise;
15.3.2 the use of explosives for blasting;
15.3.3 the vibration from pile driving or caisson work, provided that the minimum coverage for any such loss or damage shall be \$5,000,000

16 ADMINISTRATION

- 16.1 No contract or purchase shall be divided to avoid any requirements of this policy.
- 16.2 In all purchases, price shall be the primary selection criteria. All additional factors influencing the purchasing decision are to be included in the specifications.
- 16.3 The Town of Deep River may participate with other units of government, their agencies or public authorities in co-operative purchase ventures when the best interest of the Town of Deep River will be served. Where such participation is at variance with the Town’s Purchasing policy, Council shall first authorize any participation.
- 16.4 All invoices and accounts from vendors shall be authorized prior to payment. Authorization shall be in the form of initials or signatures of the Chief Administrative Officer/Clerk and/or Managers and staff denoting clerical accuracy, budgetary or specific resolution approval and indication that goods and services were received in good order.

- 16.5 Between the last regular meeting of Council in any year and the adoption of estimates for the next year, the Treasurer is authorized to pay properly authorized accounts of any ordinary business transactions of the Corporation that are required to maintain services. This shall include the payment of accounts or previously approved capital items and projects.
- 16.6 Notwithstanding the provisions of this procedure, the Town shall have the right to reject the lowest or any bid at its absolute discretion. The Town also reserves the right to reissue the bid document in its original format or modified as best suits the requirements of the Town.
- 17 **RETENTION OF DOCUMENTATION**
 - 17.1 All background information, information submitted by vendors, purchase orders and other relevant information involved in obtaining prices for goods and services exceeding \$5,000 shall be retained in for five years after the date of purchase.
- 18 **PURCHASING PROCESS REVIEW**
 - 18.1 This policy shall be reviewed by Council once in the term of each succeeding Council. In carrying out this review, Council may request reports from the Chief Administrative Officer/Clerk on procedures and practices established under this policy.
- 19 **PURCHASING PROCEDURES**
 - 19.1 Detailed administrative procedures which comply with this policy may be implemented by the Chief Administrative Officer/Clerk in consultation with the Treasurer.
- 20 **IN-HOUSE BIDS**
 - 20.1 The decision to tender for a service includes a decision not to provide the service in-house. Where a tendering process is used, in-house bids will not be prepared.
- 21 **PURCHASING FROM OR FOR EMPLOYEES**
 - 21.1 Generally the Town should not have a customer/supplier relationship in addition to an employment relationship with any individual. Accordingly, the Town shall not purchase goods or services from an employee of the municipality nor from any corporation owned or controlled by an employee, except when such a purchase is within or incidental to the employee's regular employment by the Town (an example of this exception would be reimbursement of an employee who, as a matter of convenience, purchases goods intended for the Town's use).
 - 21.2 The Town shall make no purchase for the private use of employees or members of Council.


an