

**THE CORPORATION OF
THE MUNICIPALITY OF TEMAGAMI**

BY-LAW 14-1170

**A BY-LAW TO ESTABLISH PURCHASING POLICIES
AND PROCEDURES FOR THE MUNICIPALITY OF TEMAGAMI**

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

AND WHEREAS the Council of the Corporation of the Municipality of Temagami passed By-law 09-865 on the 22nd day of October, 2009 and subsequent amendments by By-laws 10-950 and 12-1086;

AND WHEREAS the Council of the Corporation of the Municipality of Temagami deems it desirable to update current policy by repealing and replacing the above by-laws, as directed by resolution 13-376;

NOW THEREFORE the Council of the Corporation of the Municipality of Temagami enacts as follows:

1.0 PURPOSE, GOALS AND OBJECTIVES OF PURCHASING POLICY

- 1.1 The purpose of this policy is 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 and service and that an open and honest process shall be maintained that is fair and impartial.
- 1.2 The purchasing policy will 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.
- 1.3 The goals and objectives of this By-law and of each of the methods of procurement authorized are:
 - a) To encourage competition among suppliers;
 - b) To maximize savings for taxpayers;
 - c) To ensure service and product delivery, quality, efficiency and effectiveness;
 - d) To ensure fairness among bidders;
 - e) To ensure openness, accountability and transparency while protecting the financial best interests of the Municipality of Temagami;

2.0 DEFINITIONS: in this By-law,

“Bid” means a specific price for specific works.

“Bid Bond” means a debt secured by a bidder for a construction job or similar type of bid-based selection process for the purpose of providing a guarantee to the Municipality that the bidder will take on the job if selected. The existence of a bid bond provides the Municipality with assurance that the bidder has the financial means to accept the job for the price quoted in the bid.

“Buyer” means an individual that is designated by the Chief Administrative Officer to procure goods and services for the Corporation.

“Consultant” means a professional who provides professional or expert advice in a particular area such as security, management, accountancy, law, human resources, marketing, finance, engineering, or any of many

other specialized fields. A consultant is usually an expert or a professional in a specific field and has a wide knowledge of the subject matter.

“Contract” means a written agreement authorized or ratified by the appropriate authority and executed by the appropriate authority.

“Emergency” means a situation where serious delay may affect the life and health of the general public, prevention of serious damage, and the restoring of essential service levels to a minimum level. This includes, but is not limited to, water breaks and sewer backups. A state of emergency does not need to be declared in order for a situation to be considered an emergency.

“Expanded Works” means approved construction projects in which an unexpected problem arises during construction, which does not expand the scope of the project but is necessary in order to deliver the original approved work.

“Forms” means the standard documents provided as part of the purchasing procedure guideline.

“Goods and/or Services” means all supplies, materials, equipment, general maintenance and service construction contracts, construction maintenance, food, and the procurement of professional services.

The word **“his”** shall in all cases mean his or her and **“he”** shall in all cases mean he or she.

“Public Advertisement” means advertisement to the general public by means of posting on the municipal website and bulletin board and notice in at least one newspaper with general circulation in the Municipality.

“Purchase Order” means a commercial document and first official offer issued by a buyer to a seller, indicating types, quantities, and agreed prices for products or services the seller will provide to the buyer. .

“Quotation” means a bid for the supply of goods or services, from the selected sources of supply, not opened in public. THESE MAY BE WRITTEN OR VERBAL DEPENDING ON PURCHASING LEVEL.

“Request for Information (RFI)” means a proposal requested from a potential seller or a service provider to determine what products and services are potentially available in the marketplace to meet the Municipality's needs and to know the capability of a seller in terms of offerings and strengths of the seller. RFIs are commonly used on major procurements, where a requirement could potentially be met through several alternate means. An RFI, however, is **NOT** an invitation to bid, is not binding on either the buyer or sellers, and may or may not lead to an RFP or RFQ.

“Request for Proposal (RFP)” means a solicitation made through a bidding process by the Municipality to potential suppliers to submit business proposals. A Request for Proposals is submitted early in the procurement cycle, either at the preliminary study, or procurement stage. (See also section 8)

“Request for Quotation (RFQ)” means an invitation to suppliers or contractors through a bidding process, to submit a quotation on specific goods or services to be furnished. It is used when price is the main or only factor in selecting the successful bidder. An RFQ may also be used as a step prior to going to a full-blown RFP to determine general price ranges. In this scenario, products, services or suppliers may be selected from the RFQ results to bring in to further research in order to write a more fully fleshed out RFP.

“Request for Tender” means a structured invitation to vendors for the supply of goods or services.

“Single Source” means there is only one known source of supply of particular goods or services.

3.0 POLICY STATEMENT

3.1 General

All purchases of goods and services for the Municipality of Temagami shall be subject to the provisions of this By-law, regardless of method of payment (Cheque, Credit Card or Charge Account). Price and Authority Levels as stated in this By-law are intended to be before tax amounts.

In the event that a Department chooses to ask a Consultant to coordinate the procurement of goods, works and services, then it shall be the responsibility of the respective Department Manager to ensure that all conditions of this by-law are adhered to.

3.2 Preference for Local Suppliers

The Ontario Discriminatory Business Practices Act (R.S.O. 1990) shall be applied to prevent discrimination in Ontario on the ground of race, creed, colour, nationality, ancestry, place of origin, sex or geographical location of persons employed or engaging in business.

Accordingly, preference for local suppliers shall not supersede the requirements of this policy to obtain the lowest costs consistent with the required quality for goods and services. In determining the lowest costs, consideration shall be given to the cost for an employee to travel to obtain goods or services, or to have goods shipped to the Municipality (whichever is appropriate). Consideration shall also be given to the cost of ongoing service or maintenance for a proprietary purchase, where a local supplier would supply this at a lower cost due to reduced travel, when this is reasonable and documented.

3.3 Conflict

Where an employee of the Municipality of Temagami will have any interest, directly or indirectly, in any contract for goods or services, they shall disclose the interest and the general nature thereof in writing to the approval authority, prior to the contract being considered or awarded. They shall not attempt in any way to influence the decision of the awarding of the contract. Where the employee is the one responsible for the decision making, and/or in the supervisory role after the contract is awarded, they shall notify their supervisor in writing prior to the awarding of the contract, in order that someone else may be delegated the decision making and/or the supervisory authority.

If a Department Manager has a direct or indirect interest and is responsible for the quote or tender, the process shall be undertaken by a designate appointed by the CAO, if the CAO by Council.

3.4 Authorization

No purchase of goods or services shall be authorized unless it is in compliance with the Purchasing Policy and Procedures. It shall be the responsibility of the Accounting Clerk to ensure that approved purchasing policies and procedures have been followed when processing payment and to bring any discrepancies to the attention of the Treasurer. Employees who do not follow the policy shall be subject to disciplinary action as per (title heading) in the Employment Policy.

3.5 Disputes

Disputes, received in writing, shall be resolved as follows:

- i. Meeting between the bidder and Department Manager responsible;
- ii. If (i) does not lead to a resolution the decision can be appealed to the Treasurer or to the Chief Administrative Officer;
- iii. If (ii) does not lead to a resolution, the decision can be appealed to the Council.

3.6 **Review**

This By-law will be reviewed and revised on a periodic basis. It is anticipated that reviews will be conducted every five years or more frequently as required.

4.0 **EXCEPTIONS**

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

4.1 Training and Education:

- 1) Registration and Tuition fees for conferences, conventions, courses and seminars
- 2) Magazines, books and periodicals unless the purchase of such magazine books and periodicals are subject to value-added services
- 3) Memberships

4.2 Refundable Employee/Councillor Expenses

- 1) Advances
- 2) Meal allowances
- 3) Travel and entertainment
- 4) Miscellaneous – Non-Travel

4.3 Employer's General Expenses

- 1) Payroll deductions and remittances
- 2) Medical and other Employee Benefits
- 3) Licenses (Vehicle, etc.)
- 4) Debenture payments
- 5) Grants to agencies
- 6) Damage claims
- 7) Petty cash replenishment
- 8) Tax remittances

4.4 Professional and Special Services

- 1) Committee fees
- 2) Legal fees and other Professional Services necessary for receiving timely and accurate advice and assistance
- 3) Funeral and burial expenses
- 4) Witness fees
- 5) Contracts related to the provision of 'controlled acts' by persons "governed by a health profession Act", as those expressions are used in the *Regulated Health Professions Act, S.O. 1991, c.18*, as amended
- 6) Veterinary expenses
- 7) Gasoline and Diesel Fuel purchases

4.5 Utilities

4.6 Advertising services required by the Municipality on or in but not limited to radio, television, newspaper and magazines

4.7 Bailiff or collection agencies

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

- 4.9 Single source supply under \$2,000.
- 4.10 In the event of an unforeseen circumstance where an exception to this policy is felt necessary, the CAO shall make a written request to Council and Council may authorize exceptions by resolution of Council.

5.0 APPROVALS

- 5.1 Formal approval of the annual budget constitutes Council approval to proceed with purchases for budgeted projects, programs and services, subject to the purchasing policies for purchasing levels as outlined in Section 6.
- 5.2 Prior to the passing of the annual operating budget, each Department shall be allowed an interim appropriation of thirty per cent (30%) of their previous year's approved department operating budget, and such interim appropriation shall be deemed to be for routine operating and recurring expenditures or statutory purposes unless otherwise directed by Council.
- 5.3 Operational purchases not in the approved operating budget are subject to section 6 provided the department manager can find funds within their own department operating budget. Otherwise the department manager shall submit a written report to the CAO justifying the purchase and requesting that it be taken out of operating contingency funds if available. If over \$5,000.00 the report shall be submitted to Council for approval. Once approved to come from operating contingency funds, purchases shall be made in accordance with section 6 and Appendix A.
- 5.4 Any proposed capital purchases or projects not in the approved capital budget require council approval.

6.0 PURCHASING PROCEDURES FOR PURCHASING LEVELS

- 6.1 Purchases shall be made according to the procedures for the applicable price level set out below and summarized in the table in appendix A.
 - 6.1.1 **UP TO \$2,000**
Department Managers are hereby authorized to purchase goods or services having a value up to and including \$2,000 and may delegate that authority in writing as required within their departments. Prices may be obtained by means of verbal or written quotes, catalogues, supplier lists, shelf prices, etc. Such purchases shall be made from the competitive market place upon the purchaser assuring themselves that all prices offered are fair and equitable. Such purchases may be made by using Petty Cash, a Purchase Order, a Store Account (Card), an online catalogue purchase, a municipal Credit Card, or such other means as may be authorized from time to time by the Treasurer, as appropriate for the type and value of the purchase. Payment approval for this price level is by the Department Manager.
 - 6.1.2 **FROM \$2,001 TO \$4,000**
The Public Works Superintendent is hereby authorized to purchase goods or services having a value up to and including \$4,000 for items required for routine maintenance and normal operations in the Public Works Department (i.e. grader tires). Such purchases require a minimum of two written quotes. A Purchase Order may be issued, but is not required.
 - 6.1.3 **FROM \$2,001 TO \$25,000**
Department Managers shall obtain at least two written quotes for the purchase of goods or services

having a value from \$2,001 up to and including \$25,000. The purchase shall be made by means of a Purchase Order authorized by the Chief Administrative Officer or Treasurer. Where appropriate and authorized by the Treasurer such purchases may be made on a municipal Credit Card following the issuance of a Purchase Order. In appropriate circumstances, the Request for Proposal or the Request for Tender processes may be utilized for the purchase of goods, services in this purchase level. Payment approval for this price level is by the Chief Administrative Officer or Treasurer.

6.1.4 **FROM \$25,001 to \$50,000**

Department Managers shall obtain at least three written quotes for the purchase of goods or services having a value from \$25,001 up to and including \$50,000. The purchase shall be made by means of a Purchase Order authorized by the Chief Administrative Officer. In appropriate circumstances, the Request for Proposal or the Request for Tender processes may be utilized for the purchase of goods, services or construction in this purchase level. The CAO shall submit a memo to Council with an explanation if three quotes are not possible. Payment approval for this price level is by the Chief Administrative Officer.

6.1.5 **OVER \$50,000**

Department Managers shall use the RFT or RFP process for the purchase of goods or services having a value over \$50,000. The policies for RFTs and RFPs as set out in Section 8 of this by-law and procedures are set out in Appendix “B” to this by-law. RFT and RFP Procedures shall be followed for all purchases made in this price level. Any exceptions that are not purchased through a RFT or RFP must first go to Council for approval (through a Report from the Department Manager) prior to the purchase being finalized. Payment approval for this price level is by the Chief Administrative Officer. Where a contract is required, a by-law shall be passed to authorize the signing of the contract.

6.2 A single purchase may not be split into two or more purchases in order to utilize the procedure for a lower price level.

6.3 **Use of Purchase Orders** – When a purchase order is required under this policy, a formal Purchase Order document shall be issued by the Treasurer, or designate, and signed by the appropriate purchasing authority. Sending a purchase order to a supplier constitutes a legal offer to buy products or services. Acceptance of a purchase order by a seller usually forms a contract between the buyer and seller, so no contract exists until the purchase order is accepted. It is used to control the purchasing of products and services from external suppliers.

Purchase orders are used for several reasons:

- They allow buyers to clearly and explicitly communicate their intentions to sellers
- Sellers are protected in case of a buyer's refusal to pay for goods or services
- Purchase orders help a purchasing agent to manage incoming orders and pending orders.

6.4 When a construction project requires expanded works, a purchase order shall be issued documenting the changes required and the associated cost.

6.5 Notwithstanding the provisions of this By-law, emergency purchase of goods, works and services may be made by the Chief Administrative Officer or his delegate, in the case of an emergency. The immediate purchase must be essential to prevent delays in the work of any user group, which might involve additional costs, danger to life, damage to property or loss of essential services. In all such cases, an information report to the Council shall be prepared by the respective Department Manager, setting out the nature of the emergency and the necessity of the action taken pursuant to this clause.

7.0 INVENTORY

7.1 Each Department Manager has the ability to establish inventories to ensure an efficient method of managing the delivery of goods. Where inventories are established, accurate records to account for the amount and use of inventory are to be kept. Purchases in respect of inventory are subject to the provisions of this By-law. An inventory report in the format determined by the Treasurer shall be provided to the Treasurer at the end of May and December each year.

8.0 REQUESTS FOR TENDERS (RFTs) AND REQUESTS FOR PROPOSALS (RFPs)

A Request for Tenders (RFT) is usually an open invitation for suppliers to respond to a *defined* need; whereas a Request for Proposals (RFP) is usually used for the supply of goods or the provision of services, which cannot be fully defined or specified at the time of the request. Both RFTs and RFPs may use information gathered previously from responses to a Request for Information (RFI).

The RFT / RFP process brings structure to the procurement decision and is meant to allow the risks and benefits to be identified clearly up front. In principle, an RFT / RFP:

- informs suppliers that the Municipality is looking to procure and encourages them to make their best effort;
- specifies what the Municipality proposes to purchase;
- alerts suppliers that the selection process is competitive;
- allows for wide distribution and response;
- ensures that suppliers respond factually to the identified requirements; and
- is generally expected to follow a structured evaluation and selection procedure, so that the Municipality can demonstrate impartiality in procurement.

An RFT / RFP typically involves more than a request for the price. Other requested information may include basic corporate information and history, financial information (can the company deliver without risk of bankruptcy), technical capability, product information such as stock availability and estimated completion period, and customer references that can be checked to determine a company's suitability. Additionally an RFP is typically used to obtain a solution to a situation or outcome that is defined, but the means to achieve it is not. Price is not necessarily the deciding factor; therefore a pre-determined evaluation or scoring matrix is used, with lowest price being a set percentage of the maximum score. A two envelope system, as outlined in Appendix B, may also be used when deemed appropriate.

The following policies shall apply to RFTs and RFPs for the purchase of goods and services:

- 8.1 Those referenced in Section 6 are authorized to order goods and services provided that:
- i) the lowest tender bid or highest scoring RFP (based on the pre-determined evaluation matrix) received is accepted, subject to subsection iv;
 - ii) the bid amount is within the approved budget or approved by Council;
 - iii) the lists of bids received are retained for inspection by the Municipal Auditors and appropriate Municipal Officials.
 - iv) The lowest tender bid, or the highest scoring proposal, or any RFT or RFP submission, need not necessarily be accepted, but if anything other than the lowest tender bid, or the highest scoring proposal is accepted, there must be a valid reason for doing so, which must be documented.
- 8.2 For construction projects, the Municipality may act as the general contractor when it would be in the best interest of the Municipality.

- 8.3 Competitive Sealed bids (RFTs and RFPs) shall be called by Public Advertisement.
- 8.4 When a contract is presented to Council for authorization by by-law, the CAO or Treasurer shall provide an information report to accompany it, including an explanation if the lowest bid is not recommended.

8.5 Bid Deposits

Unless otherwise specified, the refundable deposit requirements for submissions shall be as follows:

Bid Value	Deposit Required
\$50,000 or less	\$0.00
\$50,001 to \$100,000.	\$1,000.
\$100,001 to \$250,000.	\$5,000.
\$250,001 to \$500,000.	\$10,000.
\$500,001 to \$1,000,000.	\$20,000.
Above \$1,000,000.	Bid Bond in the amount of 15%.

The form for bid deposits shall be certified cheque, bank draft, money order and/or bid bond issued by an approved Guarantee Company properly licensed in the province of Ontario, on Canadian Construction Documents Committee (CCDC) bond forms acceptable by the Municipality.

Bid Bonds

A bid bond is issued as part of the bidding process as a surety to the project owner to guarantee that the winning bidder will undertake the contract under the terms at which they bid. This cash deposit is subject to full or partial forfeiture if the winning contractor fails to either execute the contract or provide the required performance and/or payment bonds. The bid bond assures and guarantees that should the bidder be successful, the bidder will execute the contract and provide the required surety bonds. A Bid Bond is purchased when a contractor, or the “principal”, is bidding on a tendered contract. A Bid Bond guarantees that the “obligee” will be paid the difference between the principal's tender price and the next closest tender price. This action is only triggered should the principal be awarded the contract but fails to enter into the contract, as agreed, with the obligee. Contractors prefer the use of Bid Bonds because they are a less expensive option and they do not tie up cash or bank credit lines during the bidding process. Owners and general contractors also use Bid Bonds because they establish and confirm that the bidding contractor or supplier has the support of a Surety Company and is qualified to undertake the project.

8.6 Procurement / Appointment of Professional Services

A - Selection Criteria

In selecting a consultant, ability, experience in similar type projects, personnel available for the project, reputation and/or local knowledge shall be considered. The selection and weighting criteria shall be determined in advance, based on the scope of the service required. Although fees are a consideration, they may not be of prime importance. Selection on a basis of price rather than ability may not ensure the Municipality of the best or most economical overall solution.

Generally, there are two methods by which a consultant may be selected:

- a) through a competitive process as outlined in this by-law; or
- b) by direct appointment;

B - Direct Appointment

Direct appointment is an efficient manner of making a selection for normal or routine projects. By the use of a roster method, the Municipality is able to employ different consultants, thus matching particular talents to the project needs. This method gives an opportunity to compare services and fees. It also “keeps the consultant competitive”.

The following points shall be considered when appointing a consultant:

- a) Has the consultant served the Municipality well in the past?
- b) Is the consultant known to the Municipality?
- c) Has the consultant been recommended?
- d) Does the Municipality wish to maintain continuity on a project by appointing a particular consultant?

8.7 **Penalty Clauses**

The Municipality may determine, based upon the time sensitive nature of a large purchase or contract, that it would be appropriate to include a penalty for late delivery or completion. Such a penalty must clarify the impact of any potential change orders by the Municipality on the penalty clause. Penalty clauses shall be used with caution and with regard to the potential for increased cost to the Municipality to obtain this assurance.

8.8 **Records**

The CAO shall ensure that a file is maintained on contractors and consultants employed by the Municipality, the projects on which they worked, and comments from the Department Manager, Treasurer, and/or CAO on the quality of work or services received.

8.9 **Privacy Policy**

The Opening of Tender or RFP submissions shall be open to the public and the total dollar amount of each bid shall be recorded at the opening, except where a two envelope system is used for RFPs. For RFPs the total evaluation score, as per the scoring matrix, shall be recorded in a similar manner once the evaluation process has been completed. This summary record of bids received and the total bid amounts and/or evaluations scores, for each RFT or RFP competition, shall be public information; however the details of individual bids shall be considered to not be public information. A contract with a successful bidder that is authorized by and forms part of a by-law shall be public information. The Municipal Freedom of Information and Protection of Privacy Act governs the privacy of information held by municipalities.

9.0 **PROCEDURES**

9.1 Appendix B contains RFT and RFP Procedures, which are provided to guide Municipal Staff in implementing the policy contained in this by-law. The Chief Administrative Officer is hereby authorized to make changes of an administrative nature to the procedures that do not change, or materially affect, the ability of staff to implement the intent of this Purchasing Policy as adopted by Council.

10.0 **SHORT TITLE**

10.1 This by-law may be cited as the Purchasing By-law.

11.0 **CORRECTIONS**

11.1 That the Clerk of the Municipality of Temagami is hereby authorized to make minor modifications or corrections of a grammatical or typographical nature to the by-law and schedules,

after the passage of this by-law, where such modifications or corrections do not alter the intent of the by-law.

12.0 REPEAL

12.1 The Municipality of Temagami Purchasing Policy No. 09-865 and all amendments thereto are hereby repealed.

TAKEN AS READ A FIRST time on this 30th day of January, 2014.

READ A SECOND time on this 30th day of January, 2014.

READ A THIRD TIME AND FINALLY PASSED on this 30th day of January, 2014.

Mayor

Clerk

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Appendix "A" to By-Law 14-1170

**Purchase of Goods and Services for Items in the Approved Annual Budget
Quick Guide**

Policy Section # Ref.	Purchasing			Solicitation		Approval		
	Level (before tax)	Authority	Method	Method	Advertising	Purchase Order Invoice Contract	Council Involvement	
							Reports / By-Laws	Budget
6.1.1	Up to \$2,000	Dept Mgr	see 6.1.1.	see 6.1.1.	n/a	Dept Mgr		Approved Budget
6.1.2	From \$2,001 to \$4,000	PW Super if routine see 6.1.2.	see 6.1.2.	Written Quotes - a least two	n/a	PW Super		Approved Budget
6.1.3	From \$2,001 to \$25,000	Treasurer or CAO	Purchase Order or Contract	Written Quotes - a least two or Request for Tender or Request for Proposal	n/a Public Ad Public Ad	Dept Mgr and Treasurer or CAO		Approved Budget
6.1.4	\$25,001 to \$50,000	CAO	Purchase Order or Contract	Written Quotes - a least three Memo to file with explanation if three quotes are not possible. or Request for Tender or Request for Proposal	n/a Public Ad Public Ad	Dept Mgr and CAO		Approved Budget or If 15% over budget, a Report from the Dept Mgr is to be submitted to Council for approval.
6.1.5	Over \$50,000	CAO	Purchase Order or Contract	Request for Tender or Request for Proposal If the above two methods (RFT or RFP) are not used a Report from the Dept Mgr is be submitted to Council for approval.	Public Ad Public Ad	Dept Mgr and CAO	Tender Report By-Law for Contract	Approved Budget or If 10% over budget, a Report from the Dept Mgr is to be submitted to Council for approval.
6.5	Emergency	CAO	As needed	Policy By-Law 09-865 Section 6.3 If a State of Emergency is declared, our Emergency Management Plan will take effect.	n/a	CAO	Information Report shall be provided to Council by the Dept Mgr, setting out the nature of the emergency.	

Notes:

The above requirements apply regardless of method of payment.
 For purchases of Goods and Services for items not in the Approved Annual Budget see Section 5.3.
 For a list of exemptions to this chart see section 4.
 Professional Services may be purchased as per the above chart or by direct appointment - see section 8.6.

Municipality of Temagami

APPENDIX B to By-law 14-1170

The following procedures are provided to guide Municipal Staff in implementing the Purchasing Policy adopted in the accompanying by-law. The Chief Administrative Officer may make changes of an administrative nature to this procedure that do not change, or materially affect, the ability of staff to implement the intent of the Purchasing Policy as adopted by Council.

PROCEDURES FOR TENDERS AND RFP'S

The following bidding procedures shall apply to the purchase “by public advertisement” of all types of goods, works and services as determined in Section 6 of this By-law.

I TENDER / RFP BID PROCESS

A General

- (a) In all cases, tenders and RFP's shall be coordinated in conjunction with the Chief Administrative Officer. The Department Manager, or other person delegated by the CAO to administer the tender or RFP, shall be referred to in this appendix as the “Tender Administrator”. The Tender Administrator will ensure:
- i) completeness of documentation;
 - ii) advertisements are arranged;
 - iii) closing dates and tender or RFP openings are scheduled;
 - iv) vendors' contact for information is appropriate.
- (b) From time to time based on the nature of the project work, and as directed by the responsible Department Manager, a contractor prequalification may be required. When this prequalification applies, contractors must provide the necessary documentation on prescribed forms acceptable to the Municipality.
- (c) For RFPs the Tender Administrator may choose to use the two-envelope system when a request for proposal (RFP) is issued, if deemed appropriate. The two-envelope approach would be used when the Tender Administrator wants the technical and qualitative information of a given proposal to be evaluated without being influenced by prior knowledge of the corresponding pricing information. In the RFP documents, it must specify that the two-envelope process is being used and that each bidder must submit qualitative and technical information in a sealed envelope (envelope one) and pricing information in a second sealed envelope (envelope two).

B Release of information to Bidders

Upon the request of a prospective bidder, the Tender Administrator shall supply the following material for each contract:

- i) one copy of the Official Tender Bid or RFP Bid form
- ii) Submission material, e.g. specifications, plans, profiles, etc.
- iii) for RFPs, the criteria that will be used to determine the successful bidder.

When a fee for submission materials/documents is required, it shall be paid to the Municipality. When a fee is refundable it will be returned when submission materials/documents are returned in good order.

C Recording and Control of Submission Material

The Tender Administrator shall ensure that names and addresses are recorded of all prospective bidders to whom bid forms have been provided to facilitate distribution of addenda and when necessary, to extend or cancel a contract under call.

D Inquires Regarding RFPs

The RFP documents shall identify the individual(s) whom bidders may contact regarding any questions about the RFP. Suppliers are encouraged to make inquiries to ensure a complete understanding of the requirements; however, questions must be submitted in writing to the individual(s) identified. If questions are asked of someone other than those identified, the bidder may be eliminated from the competition. The RFP documents shall include timelines for questions and answers.

E Changes to Tenders Under Call

(a) Preparation of an Addendum

- i) Interpretations should be made in reply to queries from bidders only, in the form of a written addendum.
- ii) When it becomes necessary to revise, delete, substitute or add to specifications for a contract under call, the Tender Administrator shall coordinate the issuance of an addendum or cancel the contract.

(b) Notification of Addenda to Contractors / Suppliers

A copy of each addendum shall be forwarded to each contractor / supplier who obtained bid forms for the contract. A copy of the addendum notice shall also be stapled to each bid form not yet distributed.

(c) Notification to Contractors / Supplies of Cancellation of Contract

Each contractor / supplier who received bid forms shall be notified of the cancellation of the contract.

(d) Return of Submissions on Cancellation of Contracts

When a contract is cancelled, no bids will be accepted. Any submissions inadvertently received shall be returned unopened to the contractor / supplier by hand or by registered mail, with a covering letter.

(e) Notification to Contractors / Suppliers of Extension of Time

Each contractor / supplier who received bid forms shall be notified of the extension of time.

(f) Disposition of Tender Bids When Closing Date has been Extended

When the closing date for receiving bids has been extended, bids already received shall be handled as follows:

- i) If the extension of time is four weeks or less, the contractor / supplier shall be advised that his bid will be returned upon request.
- ii) If the extension of time is more than four weeks, all bids shall be returned unopened, with a letter of explanation.

For this section, all communications shall be by registered mail.

F Submission Requirements

(a) Tender Bid Requirements

All tender bids shall either be mailed or delivered in a sealed envelope to the Attention of the Chief Administrative Officer or Tender Administrator and stating the Contract Name and/or

Number on the outside of the envelope. Email or facsimile submissions shall not be accepted.

Tender Bids are required to conform to the conditions listed below:

- i) The correct Tender Bid Form, as supplied by the Municipality, must be used and must be delivered to the Municipal Office, on or before the Closing Date, and Time. **TENDER BIDS RECEIVED AFTER CLOSING TIME WILL NOT BE CONSIDERED.** The tender shall specify which clock shall be used to determine the closing time.
- ii) The tender bid must be legible, written in ink or typed, with the unit price for each item and other entries clearly shown, unless the bid form specifically permits otherwise.
- iii) The tender bid must not be restricted by a statement added to the tender bid form or a covering letter, or must not have alterations to the tender bid forms, unless requested by the Municipality.
- iv) Adjustments by telephone, facsimile, email or letter for a bid already received will not be considered. A Bidder desiring to make adjustments to a bid must withdraw the submission and/or supersede it with a later tender bid.
- v) The submission form must be signed and initialled in the space(s) provided on the form, with the signature of the bidder, or of a responsible official of the contractor/supplier bidding. If a joint bid is submitted, it must be signed on behalf of each of the bidders, and if the signing authority for both bidders is vested in one individual, he shall sign separately on behalf of each bidder. In the case of an incorporated company, the corporate seal must be affixed on the bid form.
- vi) Erasures, overwriting or strike-outs must be initialled by the person signing on behalf of the contractor/supplier bidding.
- vii) Tender bids, if applicable, must be accompanied by a certified cheque, bank draft, money order and/or bid bond made payable to the Corporation of the Municipality of Temagami, in the amount specified in the Purchasing By-law, **AND MUST BE ENCLOSED IN THE SAME ENVELOPE AS THE TENDER BID.** When Proof of Bonding must be furnished before a contract is awarded, it shall be provided no later than 10 days following the award of the tender.

(b) RFP Bid Requirements

- i) Section E(a) shall apply to RFP bids, with the exception of subsection (iii).
- ii) Each proposal must outline clearly how the bidder intends to meet the intended project outcome and must include all components included in the call for proposals, with the unit price for each component and other entries clearly shown, unless the RFP call specifically permits otherwise.

(c) Failure to Observe Tender or RFP Bid Requirements

If any of the tender bid requirements have not been met, the bid shall be considered to be improper and dealt with as set out in Section J.

G Receiving of Tender and RFP Bids

(a) Submission Box Storage of Received Bids

Sealed bids shall be received and maintained under the control of the Chief Administrative Officer or Treasurer in a secure location in the Municipal Office.

(b) Time and Date Stamping and Recording of Bids

When a tender bid or proposal bid is received, the envelope shall be time and date stamped. If a time stamp not available, the time received shall be noted in ink and initialled by the Chief Administrative Officer, Treasurer, Tender Administrator, or designate. Receipt of each bid shall be

recorded. Submissions shall be deposited unopened in the appointed secure location. The bids shall be deemed received when the envelope has been stamped with the time and date of receipt by the Chief Administrative Officer, Treasurer, Tender Administrator or designate.

(c) Late Submissions

Regardless of the time a tender bid is received, the envelope shall be time and date stamped. If the tender bid is for a contract already closed, it shall be returned unopened to the bidder. If a tender bid is to be returned by mail, it shall be accompanied by a covering letter.

If a late bid is received without a return address or other identification on the envelope and the bidder cannot be determined, it shall be opened, address obtained and then returned. A covering letter from the Chief Administrative Officer should state why the envelope could not be returned unopened.

(d) Action on Correspondence Pertaining to Adjustments, Corrections or Restrictions to a Tender Bid

Any correspondence, pertaining to adjustments, corrections or restrictions to a bid, which is received with a bid, but outside the submission envelope, or is received after a bid has been submitted, but prior to closing time, shall not be considered {see Section E (a) (iv)}. Depending on the time available, the bidder shall be advised by the Tender Administrator or designate, by mail or phone of the withdrawal procedures.

H Withdrawal of Tender Bids

(a) Withdrawal of Bids Prior to Opening

A contractor/supplier, who has submitted a tender bid, may request that it be withdrawn. Adjustments or corrections to a submission will not be allowed. The withdrawal shall be allowed if the request is made prior to the closing time for the contract to which it applies. Withdrawal requests must be directed to the Chief Administrative Officer or Tender Administrator by letter, facsimile or in person. Telephone requests shall not be considered.

When withdrawals are made in person, the Chief Administrative Officer or Tender Administrator shall obtain a signed withdrawal confirming the details. If the person is other than a Senior Official of the Company and for letter or facsimile withdrawals, the authenticity of the request must be confirmed by telephoning a responsible Official of the Company.

Withdrawal requests received after the contract closing time will not be allowed. The party concerned shall be informed that the withdrawal request arrived too late for consideration. However, when the bids are read out at the bid opening, and if it is the lowest bid on a contract, the bidder may then proceed in accordance with Section H.

The withdrawal of a bid prior to the closing date does not disqualify a bidder from submitting another offer on the same contract.

(b) Withdrawal of Submissions during the Opening

At the conclusion of the reading out of bids on a contract, a low bidder may withdraw any of his remaining bids on other contracts. Withdrawn bids under this procedure cannot be reinstated. If more than one bid is read out under the same name for the same contract and no withdrawal notice has been received, then Section H (g) shall apply.

(c) Withdrawal of Submissions after the Opening

The withdrawal of a bid after the public opening is concluded shall be dealt with in accordance

with Section K (h) Action When Successful Bidder Does Not Finalize Contract.

I Opening of Submissions

(a) Public Opening of Submissions

The Opening of Tender or RFP submissions shall be open to the public.

(b) Action to “Unknown” Bids at Opening

Any bid that does not clearly identify the contract on the envelope shall be opened and placed with its appropriate group.

(c) Action on Correspondence found Enclosed in Tender Submission Envelope

If correspondence is found enclosed with a Tender bid in the envelope which, in the opinion of the Chief Administrative Officer or Tender Administrator, could qualify the bid in any way, that submission shall initially be considered improper and shall be so noted in the record. “The decision as to whether to accept or reject this bid will be made by the Chief Administrative Officer or Tender Administrator and noted in the record.

(d) All Bids Received Must be Accounted For

When bids have been opened and sorted, the Chief Administrative Officer or Tender Administrator shall check the Listing of Bids received, and the number opened to ensure that all submissions are accounted for. If a discrepancy occurs, the opening proceedings shall be delayed until all bids have been accounted for.

(e) Reading Out of Bid Amounts, and Listing of Information

When all bids have been accounted for, the Chief Administrative Officer and Tender Administrator or designate shall announce for each project, the bid number, and the number of bids received, the name of the bidder and total bid amount, simultaneously recording the name of each bidder, the bid amount and the deposit cheque amount on a bid opening form.

(f) Action When Correspondence Requesting Withdrawal Attached to the Bid

When, during the reading out of submissions, the Chief Administrative Officer or Tender Administrator receives a bid that has correspondence requesting withdrawal attached, he shall read out the bid number and the bidder’s name and indicate to those in attendance that the bid is one previously announced as withdrawn at the request of the bidder (see Section G (b)). The bidder’s name for each withdrawn bid shall be recorded immediately following the names of the bidders whose submissions will be considered, noting the method and date of withdrawal.

(g) More Than One Submission Under Same Name

During the reading out of tenders, the Chief Administrative Officer or Tender Administrator shall check for more than one bid under the same name (without a notice of withdrawal). If this situation occurs, each bid shall be documented and referenced in a manner as “A”, “B”, “C”, etc. and shall be dealt with as normal bids.

(h) Preparation of Notice of Withdrawal of Submission

A contractor/supplier (read out aloud as low bidder on a previous bid) who desires to withdraw a bid(s) during an opening shall attest in writing to his identity and state the contract(s) on which he desires to withdraw. The Notice of Withdrawal of the bid must be signed by the contractor/supplier. This notice must be handed to the Chief Administrative Officer or Tender Administrator before the reading out of the first bid on the contract(s) to which it applies (see Section G (b)). The Chief Administrative Officer or Tender Administrator shall attach it to the applicable submission.

The Chief Administrative Officer or Tender Administrator shall read out the bidder's name and announce that the bid has been withdrawn in accordance with established procedure.

The Chief Administrative Officer or Tender Administrator shall not read out the bid amount of a withdrawn submission.

NOTE: A contractor/supplier who withdraws a bid on the strength of being read out as low bidder on a previous contract, does not have the right to reinstate the withdrawn bid if subsequent checking proves that his bid on the previous contract was not in fact, low.

J Checking Bids

The submissions will be checked to determine whether,

- i) all requirements have been met,
- ii) all unit prices have been correctly extended,
- iii) the extensions have been correctly totalled.

K Basis of Decisions on Acceptance or Rejection of Improper Tender Bids

The decision as to whether an improper bid shall be accepted or rejected shall be based upon the following general consideration:

- i) is the intention of the bidder clear?
- ii) has the bidder made a conscientious attempt to comply with the submission requirements?

Care must be exercised by the Chief Administrative Officer or Tender Administrator and the Department Head involved, to ensure that improper bids are handled in a manner which is fair to other bidders as well as the public. The following principles apply:

- (a) Late Tender Bids
must be rejected and will not be considered (Section E (a) (v)).
- (b) Tender Bids Not Completed in Ink or Typed - must be rejected.
- (c) Incomplete Tender Bids
Part tender bids must be rejected, except when the instructions clearly state that an award may be made for individual items (e.g. Contracts such as equipment rental or some material contracts which are, in effect, several individual contracts combined).
- (d) Qualified Tender Bid
If a bid is restricted by a statement added to the bid form or a covering letter, or alterations are made to the bid form, unless the change was requested by the Municipality (e.g. F.O.B. point changed, escalator clause, etc.), then the bid must be rejected.
- (e) Tender Bid Not Signed
Tender Bids that are not properly signed and sealed must be rejected.
- (f) Erasures, Overwriting or Strikeouts Not Initialled
Bids where erasures, overwriting or strikeouts have not been initialled must be rejected.
- (g) Mathematical Errors
Tender Bids containing mathematical errors that have been corrected, may be accepted. Tender Bid unit prices shall ordinarily be used to correct extensions.
- (h) Deposit Not Submitted or of Insufficient Amount
If a certified cheque, bank draft or money order deposit and/or bid bond (if required) is not submitted, the tender bid must be rejected.

(i) Agreement to Bond

If an agreement to bond is not submitted when required, the tender bid must be rejected.

L Award Process(a) Awarding Tenders

The project shall be awarded to the lowest bidder who has met all of the requirements for a proper tender bid as outlined above, unless there is a valid reason for not doing so. If awarded to other than the lowest bidder, the reason shall be documented in writing and signed by the Tender Administrator and the Chief Administrative Officer. One copy of the signed documentation shall be provided to the Treasurer and one copy shall be filed in the Project File. If the project value is over \$25,000 or over budget, an informational report or memo shall also be provided to Council.

When identical low bids are received, the CAO shall designate the person who shall determine the low bidder by checking three references for each bidder.

(b) Awarding RFPs

In reviewing the merits of proposals submitted in response to RFPs, cost is not the only factor to be considered, particularly when a maximum or set dollar amount for a project has been specified in advance. Only proposals that meet all of the mandatory requirements may be short listed for further consideration. Evaluation of proposals may require reference checks, presentations, or interviews if outlined in the RFP criteria.

After the proposals have been opened in public, they shall be evaluated by a selection committee. Short listed proposals shall be evaluated based on the rating/scoring criteria set out in the request for proposal. Each member of the committee shall receive a copy of the RFP documents, the evaluation matrix, and copies of all proposals received. Each committee member shall rank the written proposals, and where applicable oral presentations, individually.

When a two-envelope system is used for short listing, only envelopes marked “envelope one” are opened at the initial opening. These are then evaluated by the selection committee and scored according to the pre-determined evaluation matrix. After the scoring of envelope one is completed, then the pre-determined process for moving to envelope two is followed. If a proposal is not eligible to proceed to price evaluation, the bidder is disqualified from further consideration and the second envelope is returned to the bidder unopened. For each proposal where envelope two is opened, the bid price(s) are scored according to the pre-determined matrix and the individual total score for the proposal is calculated.

The individual tallies shall be combined to determine the overall score for each submission. The highest scoring proposal will typically be the one chosen (see 8.1(iv)). Final details of the contract may be negotiated with the preferred supplier.

(c) Contracts

Where a contract is required, once the decision has been made regarding the successful bidder, the Chief Administrative Officer shall advise the Clerk to prepare a draft by-law to authorize the execution of a contract with the successful bidder, for Council’s consideration. The awarding of the contract shall not be finalized until after the passage of the by-law; however, the Tender Administrator may advise the successful bidder that they have been awarded the contract pending the passage of the by-law. Once the contract has been executed, the Tender Administrator shall advise unsuccessful bidders in writing of the award and the name of the successful bidder.

(d) Disposition of Deposit Cheques

Following the award of the contract, all deposit cheques and/or bid bonds, other than the low and second low bids, shall be returned to the applicable bidders by regular mail, by the Treasurer, and all original submission forms shall be retained on file.

(e) Execution of Contract

Where a Municipal contract is required, a contractor/supplier shall be allowed fifteen working days between the date of mailing the Form of Contract, and the date the executed contract must be returned to the Chief Administrative Officer or Treasurer. Copies of the executed contract will be distributed to the appropriate Senior Manager. No work shall proceed until the contract is executed by all parties and the necessary securities are filed with the Municipality's Treasurer.

(f) Action on Acceptance of Contract

When copies of the executed contract are returned and found acceptable to the Treasurer, the Tender Bid Deposit of the second low bidder shall be returned by registered mail, or may be delivered in person if the recipient signs for receipt of the deposit.

The Tender Bid Deposit of the successful bidder will be returned by registered mail (or may be delivered in person if the recipient signs for receipt of the deposit) once the necessary security documentation is received. This documentation includes, 50% Performance Bond and 50% Labour and Material Bond, or as otherwise stipulated in the contract, or 100% of the amount of the bid in cash or certified cheque, Certificate of Insurance, with coverage to a minimum of \$2 million and naming the Corporation of the Municipality of Temagami and its agents or sub-contractors as additional, insured's, and WSIB Clearance Certificate.

NO WORK SHALL COMMENCE UNTIL THE ABOVE HAS BEEN SATISFIED.

(g) Bonding Requirements

When stipulated in the contract, the Municipality typically requires a Performance Bond and a Labour and Materials Bond for 50% each, of the bid, or other amounts when conditions warrant, issued by an approved Guarantee Company properly licensed in the province of Ontario, on Canadian Construction Documents Committee (CCDC) bond forms acceptable to the Municipality, or 100% of the amount of the bid in cash or certified cheque. There may be instances where it is desirable to obtain bonding to the extent of 100% of the bid amount to be determined on the recommendation of the Department Head in consultation with the Treasurer. These securities must be furnished by the contractor before the contract can be executed.

(h) Action When Successful Bidder Does Not Finalize Contract

If a contract has been awarded and the successful bidder fails to sign the contract or to provide the necessary security within the specified time, (see Section K (e)) the Chief Administrative Officer may grant additional time to fulfil the necessary requirements or may recommend to Council, in consultation with the Department Manager involved, one of the following:

- i) that the contract shall be awarded to the next lowest bidder
- ii) that the contract shall be cancelled.

In the case of (i) and (ii) above, the Tender Bid Deposit of the low bidder shall be forfeited.

II Formal Selection Procedure for Consultants Services

Guidelines to decide which consultant to appoint:

M Project Definition

A detailed definition of the project is required so that the consultants will interpret the requirements in a similar manner, making it easier for the Municipality to make an appropriate

selection.

N Prepare a Long List

Develop a list of 6-8 consultants from personal knowledge and/or experience of the Municipality, from recommendations of other municipalities, or obtain names of consultants from professional associations or may advertise in appropriate publications.

O Request Letter of Interest

Consultants listed should be requested to submit a letter of interest in the project. This brief written submission should include: the consultant's ability and experience on similar projects, a list of key personnel and their résumés, the method of organisation if the project is complex.

P Prepare a Short List

Short list 2 to 5 consulting firms from the responses received.

Q Request for Proposals

When requesting a detailed proposal, the Municipality must provide the consultants with the following:

- definition of the project
- scope of services that are requested
- Terms of reference

The Request for Proposal should ask the consultant to provide detailed information on:

- the name, size, location and description of firm
- the staff or study team proposed for assignment on the project
- résumés of key personnel
- the consultant's previous experience
- project methodology
- schedule or time frame for the project
- basis for fees

R Interview Candidate Consultants

This gives the Municipality the opportunity to assess the capabilities of the consultant's senior staff and how they interact with Municipal staff.

S Select Preferred Consultant

Selection should be made on ability, qualifications and experience in similar projects, personnel assigned to the project, reputation, location, knowledge, work load and fees.

T Meet with Preferred Consultant

The Municipality should meet with the preferred consultant to discuss the project in depth, update the terms of reference and agree on compensation for the project.

U Approvals

Consulting fees exceeding \$25,000 require Council approval.

V Execute Agreement

Where the formal selection procedure is used, a contract should be prepared for the protection of the Municipality and the consultant.

W Notify Unsuccessful Consultants

Unsuccessful consultants will receive written notification of the decision.