

# THE CORPORATION OF THE TOWNSHIP OF MULMUR



## BYLAW NO. 10 -2021

### BEING A BYLAW TO PROCURE GOODS AND SERVICES

WHEREAS section 271 of the Municipal Act, 2001 requires Municipalities and Local Boards to develop policies to be used for the procurement of goods and services;

NOW THEREFORE THE CORPORATION OF THE TOWNSHIP OF MULMUR BY THE MUNICIPAL COUNCIL THEREOF ENACTS AS FOLLOWS:

#### PART I Definitions:

- 1.0 **Council** shall mean the Municipal Council for the Township of Mulmur.
- 1.1 **CAO** shall mean the Chief Administrative Officer of the Township of Mulmur.
- 1.2 **Department Head** shall mean the Head of a department for the Township of Mulmur.
- 1.3 **Emergency Purchase** shall mean a purchase made in a crisis situation where immediate action is required to prevent the possible loss of life or property or significant financial loss or environmental impacts.
- 1.4 **Purchasing Designate** shall mean a person or agent designated by a Department Head to exercise any or all responsibilities of that Department Head with respect to the policy.
- 1.5 **Bid Document** shall mean a Quote, Request for Proposal or Tender
- 1.6 **Quotation** shall mean a written offer to sell or a bid obtained from selected suppliers to supply stipulated goods or services at a particular time.
- 1.7 **Request for Proposal (RFP)** shall mean the process used to solicit bids for the purchase of goods and services where a clearly defined specification is not available or is difficult to develop due to unknown factors or uncertainty of requirements.
- 1.8 **Request for Tender (RFT)** shall mean the request for bids where the specifications are defined.
- 1.9 **Small Order Purchases** shall mean the purchase of goods and services up to an amount specified in the Procurement Policy.
- 2.0 **Staff** shall mean an employee for the Township of Mulmur.
- 2.1 **Tender** shall mean a document, which sets out 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.
- 2.2 **Township** shall mean the Township of Mulmur.

- 2.3 **Treasurer** shall mean the Treasurer of the Township.  
2.4 **Vendor** shall mean any person or enterprise supplying goods or services to the Township.

**PART II Procurement Policies:**

- 1) The procurement policy that shall be used as set out in Schedule (a) of this Bylaw.

This by-law shall come into effect, February 3<sup>rd</sup>, 2021. By-Law No. 01-20 is hereby repealed.

**BYLAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED ON THIS 3<sup>RD</sup> DAY OF FEBRUARY, 2021.**

  
MAYOR

  
CLERK

## **Schedule A**

### **TO BY-LAW NO. 10 -2021**

#### **Procurement Policy**

##### **Purpose:**

The purpose is to ensure:

1. Objectivity and integrity in the procurement process;
2. Fair treatment of all bidders;
3. Openness, accountability and transparency in all business transactions;
4. Responsible management of the public funds, Municipal finances and assets;
5. Best value is achieved when procuring supplies and services;

To ensure effectiveness and relevance of this policy there shall be a review completed within 5 years of the approval date. The policy remains in force until the review is completed and Council has adopted any revisions.

##### **Scope:**

This policy applies to all Departments of the Township.

##### **Roles & Responsibilities:**

The Council of the Township has ultimate authority for all expenditures. Council delegates this authority by the authorization of budgets or by specific resolution. The Treasurer cannot pay for any item that has not been authorized by Council through budget appropriation or specific resolution.

Resolutions approving budget amendments, capital expenditures or special appropriations shall reference the purpose of the expenditure, cost estimates or expenditure limitation, as well as the fund in which the appropriation has been provided.

The Department Heads shall be responsible for approval of accounts within the approved budget for their Department or any amendment to same as approved by Council. The Department Head may appoint a Purchasing Designate to exercise any or all responsibilities assigned to that Department Head by this Purchasing Policy. It is the Department Head's responsibility to notify the Treasurer in writing regarding the name of the Purchasing Designate.

This process may alternatively be delegated to the Township Engineer or Township Solicitor or any other agent of the Township.

## **Procedure:**

### **Procurements below \$1,000**

Value of procurement below \$1,000 excluding all applicable taxes may be delegated to any member of staff by a Department head.

### **Small Order Purchases**

A Department Head is hereby authorized to make Small Order Purchases for goods or services under \$10,000 from such vendors and upon such terms and conditions, as the Department Head deems appropriate. The Department Head will attempt to obtain competitive prices.

### **Quotation Purchases**

A Department Head is hereby authorized to make a Request for Quotation Purchase for goods or services between \$10,000 and not more than \$50,000 from such vendor and upon such terms and conditions as the Department Head deems advisable, subject to first obtaining at least three (3) written quotations, whenever possible. Bid documents and specifications (as applicable) can be issued and received by e-mail and/or fax transmission at the originating Departments location.

### **Tender Purchases**

The Department Head 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. Bids must have a submission label detailing the project name, bidder's name and address. All attempts must be made to obtain at least three (3) written tenders whenever possible.

All Tenders shall be advertised electronically on either the Municipal website or an integrated online portal for the public bid distribution for at least fifteen (15) calendar days preceding the closing date for tenders or for a longer period if required by trade agreement.

All addenda material will be posted at minimum 48 hours prior to bid closing. Tender closing may be extended to allow sufficient time for bidders to consider Addenda materials.

All Tenders shall include the provision "the lowest or any bid will not necessarily be accepted".

All tenders shall close at 2:00 p.m. on the date specified in the advertisement. Late or unsealed bids will not be accepted. Tenders shall be opened at a public tender opening immediately following the tender closing by the appropriate Department Head or Purchasing Designate, at least one (1) other staff member and any other person deemed necessary.

A record of the tendered prices will be noted together with the list of tenderers. Tenders will be referred to the appropriate Department Head for review.

A request for information may be required where there is doubt regarding a Company's ability to meet the terms of the tender. A bid may be deemed non-compliant if the bidder is unable to provide proof, to the satisfaction of the Department Head, that they are experienced and capable of meeting the terms of the tender.

Tender forms will set out the requirements for cash deposits, performance bonds and/or hold backs as security.

The acquisition of major equipment does not require tender deposits, performance or payment bonds.

#### Request for Proposals (RFP)

A Department Head may use a request for proposal in place of a Request for Tender when goods or services cannot be specifically stipulated or when alternative methods are being sought to perform certain functions or services. In the case of requests for proposals, Terms of Reference for the project, including information pertaining to the evaluation of the Request for Proposal, shall be issued to perspective applicants.

#### Emergency Purchases

There may be instances due to an emergency or due to a unique situation when the procurement policy cannot be used. A Department Head who has made an Emergency Purchase greater than \$10,000 shall present a report to Council at the meeting immediately following the Emergency Purchase.

#### Exceptions

Notwithstanding the above, adherence to this Procurement 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 purchasing policy:

- Borrowing and investing of money
- Consulting fees with respect to employee matters
- Consulting services for a program where services (i.e. bridge inspection/evaluation) have been awarded to a consulting firm on an on-going basis, where clearly identified in the budget.
- Damage claims
- Debenture payments
- Employee benefits
- Hiring of contract employees
- Insurance premium payments, claim settlements and adjuster services
- Legal fees and other professional services related to litigation or legal matters
- Licenses, including hardware and software licenses and maintenance contracts
- Computer hardware and software to use with and/or to integrate with existing equipment and software already in use
- Memberships
- On-going services and contracts the Township has with various suppliers.

Department Heads may recommend to Council that the service be continued, or that it be tendered or that quotations be obtained at the time of renewal. Examples include but are not limited to:

- Audit Services
- Banking Services
- Food Management Services
- Provision of Property and Liability Insurance
- Provision of Health Care Benefits
- Maintenance and Cleaning Contracts
- Payroll deductions
- Reimbursement of employee and council expenses
- Rental, lease, purchase and sale of property, land or accommodation
- Replacement parts, where the original equipment manufacturer is the sole provider of that equipment
- Single source supply and if the single source supply is in excess of \$20,000, Council approval is required
- Supply and placement of road material throughout the Township in excess of \$50,000 when clearly identified in the budget.
- Training and education
- Utilities

Department Heads shall ensure that unbudgeted capital projects are approved by Council and any capital projects that will exceed the budgeted amount by more than \$10,000 must receive Council approval.

Council approval is not required if all the following conditions have been met:

- The total value of the quotation is less than the amount approved in the current year budget
- The contract is being awarded to the lowest bidder meeting the specifications

### **Conflict of Interest**

All procurement must be done in an ethical, fair and transparent manner and there must not be any conflicts of interest as outlined below.

The term "Conflict of Interest" includes, but is not limited to, any situation or circumstance where:

- a. in relation to the procurement process, the proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to:
  - i. having, or having access to, confidential information of the Township, Board or Committee, in the preparation of its proposal that is not available to other proponents;
  - ii. having been involved in the development of the Bid Document, or provided advice or assistance in the development of the Bid Document;

- iii. receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the Bid Document;
  - iv. communicating with any person with a view to influencing preferred treatment in the Bid Document process (including but not limited to the lobbying of decision makers involved in the procurement process); or
  - v. engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive Bid process or render that process non-competitive or unfair; or
- b. in relation to the performance of its contractual obligations contemplated under a contract for the Deliverables, the proponent's other commitments, relationships, or financial interests:
- i. could, or could be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement, or
  - ii. could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations.

**General Provisions:**

A Department Head may request exemption from any or all of the purchasing methods outlined in this policy by submission of a request to the CAO and Council. Such exemption may be granted by resolution of Council.

No employee or elected official of the Township shall divide, stagger or alter any contract or purchase to avoid any requirements of this policy.

No employee or elected official of the Township shall purchase or offer to purchase on behalf of the Township any goods or services except in accordance with the policy.

The purchase of goods and services from firms located within the boundaries of the Township shall be encouraged whenever possible, on the basis of all other selection criteria being equal.

Performance evaluations may be undertaken on suppliers and providers of service.

The CAO and Department Heads shall ensure that in all purchases, price and past performance shall be the prime selection criteria provided all specifications are met. Such specifications are to be generic or "as equivalent". All factors influencing the purchasing decision are to be included in the specifications.

Each Department Head or the Purchasing Designate shall ensure that, in respect of his or her department, all invoices and accounts from vendors shall be authorized, in accordance with this policy, prior to payment. Authorization in the form of signatures of the Department Head and staff denoting clerical accuracy, budgetary or specific resolution approval and indication that goods and services were received in good order must be in place. These required signatures are deemed to authorize payment.

After the adoption of the budget, the Treasurer is authorized to pay the accounts approved by the appropriate Department Head and to pay contract accounts upon receipt of evidence of value received and which is approved by the appropriate Department Head.

The Township shall have the unfettered right to cancel any procurement process at any stage and shall not be obliged to accept any procurement offer, whether in a tender form or not. The Township shall have the unfettered right to recommence any procurement process.

No breach of the by-law shall give rise to any claim or action against the Township.

#### Co-Operative Purchasing

The Township may and is encouraged to participate with other municipalities, municipal agencies or public authorities in co-operative purchase ventures when the best interest of the Township will be served.

#### Accessibility

The Township of Mulmur will comply with the requirements of the Ontario Human Rights Code, the *Accessibility for Ontarians with Disabilities Act, 2005* and its associated standards enacted through regulation when procuring facilities, goods and services, including self-serve kiosks.

The Township will incorporate accessibility features/consider accessibility for people with disabilities when designing, procuring or acquiring self-serve kiosks.

The Township will communicate with people with disabilities in ways that take into account their disability. The Township will provide information about our organization and its services, including public safety information, in accessible formats or with communication supports when requested.

The Township will meet internationally recognized Web Content Accessibility Guidelines (WCAG) 2.0 Level AA website requirements in accordance with Ontario's accessibility laws.

The Township will ensure that third parties who deal with members of the public on behalf of the Township are adequately trained. The Township may request training logs from contractors.

#### Occupational Health and Safety

Vendors who will be supplying a service to the Township must provide in their documentation a commitment to carry out the work, on or related to Municipal assets or property, in conformity with the Occupational Health and Safety Act and any other related applicable legislation and regulations.

#### Insurance and Workplace Safety and Insurance Board (WSIB)



All vendors who supply services to the Township of Mulmur shall, before the start of work, provide:

- Liability insurance coverage to indemnify the Township or local board from any damage claims arising from the contract.
- Certificate of Clearance from the Workplace Safety and Insurance Board along with their sealed tender forms.

