

## Municipality of South Huron Policy



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## Index

Policy Statement .....	4
Legislative Authority .....	4
Definitions .....	4
Application .....	9
Accessibility Requirements .....	10
Responsibilities and Authorities .....	10
Requirement for Approved Funds .....	11
Trade Agreements.....	12
Drinking Water Quality Management Standard .....	12
Advertising and Bid Solicitations.....	13
Purchasing Documentation.....	13
Methods of Purchasing .....	14
Request for Expressions of Interest.....	14
Direct Purchase .....	14
Quotations (Purchases Greater Than \$10,000 and Not Exceeding \$25,000 excluding taxes) .....	15
Request for Tender (RFT) (Purchases Greater Than \$25,000 excluding taxes) .....	15
Request for Proposal (RFP) (Purchases Greater Than \$10,000 excluding taxes) .....	16
Single Source Purchases.....	17
Sole Source Purchases .....	18
Special Circumstance Purchases .....	18
Negotiation .....	19
Formal Bid Process.....	19
Co-operative Purchasing.....	20
Finance Leasing .....	20
Reporting Procedures .....	20
Prescribed Council Approval .....	20
Document Execution Authority .....	21
Financial Securities and Insurance .....	21
Bid Irregularities.....	21
Form of Contract.....	22
Dispute Resolution.....	22

Lobbying Restrictions .....	23
Access to Information .....	23
Compliance .....	24
Environmentally Sound Acquisitions .....	24
Conflict of Interest .....	24
Severability.....	25
Policy Review .....	25
Enquiries .....	25
Appendix “A” to Procurement Policy.....	26
Appendix “B” to Procurement Policy.....	28
Actions for Irregularities contained in Bids.....	28
Appendix “C” to Procurement Policy.....	31
Lease Financing Policy.....	31
Appendix “D” to Procurement Policy.....	34
Execution Authority .....	34

## Policy Statement

- 1) The purpose, goals and objectives of this Policy and of each of the methods of Purchasing authorized herein are:
  - a. to encourage competitive bidding;
  - b. to ensure objectivity and integrity in the Purchasing process;
  - c. to ensure fairness between bidders;
  - d. to maximize savings for taxpayers;
  - e. to offer a variety of Purchasing methods, and to use the most appropriate method depending on the particular circumstances of the acquisition;
  - f. to the extent possible, to ensure openness, accountability and transparency while protecting the best interests of the Municipality and the taxpayers therein;
  - g. to obtain the best value for the Municipality when procuring goods and/or services;
  - h. to avoid real and perceived conflicts between the interests of the Municipality and those of the Municipal employees and elected officials and to ensure compliance with the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50, as amended;
  - i. to encourage the purchase of goods and/or services with the due regard to the preservation of the natural environment;
  - j. to promote, and incorporate wherever possible in purchasing activities of the Municipality, the requirements of the Ontarians with Disabilities Act, 2001, S.O. 2001, c.32, as amended;
  - k. to ensure legislative compliance
  - l. to maintain timely and relevant policies and procedures

## Legislative Authority

- 1.1 The Municipal Act, 2001, S.O., c.25, as amended, states:
  - Section 270 (1) Adoption of policies - *A Municipality shall adopt and maintain policies with respect to the following matters:*
    3. *Its procurement of goods and services*

## Definitions

- 2)
  - a. In this policy:
 

**“Accessibility”** is a general term used to describe the degree of ease that something (e.g. device, service, and environment) can be used and enjoyed by persons with a disability. The term implies conscious planning,

design and/or effort to ensure it is barrier-free to persons with a disability, and by extension, highly usable and practical for the general population as well;

**"Accessible"** is that which can be easily reached or obtained; a facility that can be easily entered; posing no obstacles to persons with a disability;

**"Award"** means authorization to proceed with the Purchase, sale or Disposal of goods and/or services from or to a chosen Supplier;

**"Bid"** means an offer or submission from a Supplier in response to a request, tender or proposal which is subject to acceptance or rejection;

**"Bid Approval Report"** means a completed and authorized Purchase Requisition Form, or Council report which authorizes the purchase of goods and/or services and is executed by the Purchasing Authorities as set out in Appendix "D";

**"Bid Solicitation"** means a formal request for Bids including an Informal Quotation, Request for Quotation, Request for Tender, Request for Proposal or Request for Expression of Interest;

**"Budget"** means the budget or portion of the budget approved by Council;

**"Chief Administrative Officer"** or **"CAO"** means the Chief Administrative Officer of the Corporation of the Municipality of South Huron, their Designate or any successor position thereto;

**"Clerk"** means the Director of Legislative Services/Clerk for the Corporation of the Municipality of South Huron;

**"Compliant Bid"** means a Bid that meets the terms and conditions;

**"Conflict of Interest"** means a situation where a personal, business or other interest of an elected or appointed official, officer or employee of the Corporation is, or can be reasonably be perceived to be, in conflict with the interests of the Corporation, and includes, but is not limited to:

- i. The giving or receiving of a direct or indirect personal gain or benefit, or a direct or indirect advantage or privilege, by any person or business that offers goods and/or services to the Corporation;

- ii. a direct or indirect interest in any business that provides goods and/or services to the Corporation; and/or,
- iii. a conflict of interest as defined in the *Municipal Conflict of Interest Act*

**“Construction”** means a construction, reconstruction, demolition, repair or renovation of a building, structure or other engineering or architectural work and includes site preparation, excavation, drilling, soil or seismic investigation, the supply of products and materials and the supply of equipment and machinery incidental to the construction, and the installation and repair of fixtures of a building, structure or other engineering or architectural work;

**“Contract”** means a binding agreement between two or more parties that creates an obligation to provide or sell goods or perform services;

**“Corporation”** means The Corporation of the Municipality of South Huron;

**“Council”** means The Council of the Corporation of the Municipality of South Huron;

**“Department”** means any Department of the Corporation including any division within a Department;

**“Department Head”** means the individual accountable for the department and services assigned to each section thereof;

**“Department Representative”** means a position authorized by the CAO or Department Head for the purchase of goods and/or services up to the value of their prescribed authority, and for which written authorization has been filed with the Treasurer;

**“Designate”** means a person authorized by the Department Head to act on their behalf, and for which written authorization has been filed with the Treasurer, for purposes of this policy;

**“Formal Bid Process”** means the process for receipt of Tenders, as outlined in Section 21;

**“Goods”** means, in relation to procurement, moveable property (including the costs of installing, operating, maintaining or manufacturing such moveable property), including raw materials, products, equipment and other physical objects of every kind and description whether in solid,

liquid, gaseous or electronic form, unless they are procured as part of a general construction contract;

**"Informal Quotation"** means a request for bids for which the value is below the defined formal bid process threshold;

**"Lobbying"** means the advocacy of an interest that is affected, actually or potentially by the bid solicitation process or individuals involved in the Bid Solicitation process including seeking to influence the outcome of the Bid Solicitation process or subsequent Award;

**"Lowest Compliant Bid"** means the Compliant Bid that would provide the Corporation with the desired goods and/or services at the lowest cost;

**"Professional Services"** means those services requiring the skills of professionals for a defined service required including but not limited to:

- i. architects, engineers, economic development, designers, surveyors, geoscientists, project managers, consultants, auditors, accountants, medical professionals and legal counsel/advisors;
- ii. firms or individuals having specialized competence in environmental, planning or similar disciplines; and,
- iii. software, graphic design and web-design consultants and any other persons providing similar services;

**"Purchase"** means to acquire goods and/or services by purchase, rental, lease or trade, including construction;

**"Quotation"** means a binding statement of price, terms of sale and description of goods and/or services offered by a Supplier;

**"Request for Expression of Interest" or "RFEOI"** means a public request made by the Municipality seeking responses from potential Suppliers for the purposes of compiling a list of Suppliers who may be interested in providing goods and/or Services to the Corporation from time to time. Receipt of an expression of interest by the Municipality does not create any obligation between the potential Supplier and the Corporation, but may be a precondition to qualifying for subsequent Bid Solicitations issued by the Municipality;

**"Request for Proposal" or "RFP"** means a public request for proposals by the Corporation made in accordance with Section 16 of this policy,

seeking proposals to supply goods and/or services which may or may not result in an Award by the Corporation;

**“Request for Tender”** or **“RFT”** means a public request for tenders by the Corporation made in accordance with Section 15 of this policy;

**“Services”** means intangible products that do not have a physical presence and includes Professional Services. No transfer of possession or ownership takes place when services are sold, and they: (1) cannot be stored or transported; (2) are instantly perishable; and (3) come into existence at the time they are bought and consumed;

**“Single Sourcing”** means the non-competitive procurement process to acquire goods and/or services from a specific Supplier even though there may be more than one Supplier capable of delivery of the same goods and/or services;

**“Sole Source”** means there is only one source of the goods and/or services that meets the requirements of the Corporation;

**“Special Circumstance”** means:

- i. an event that is exceptional or could not be foreseen and is likely to pose a threat to the health, safety or welfare of the public;
- ii. an event that, unless immediately addressed, is likely to cause significant loss or damage to property;
- iii. an event that has disrupted any essential service that needs to be re-established without delay; or
- iv. an emergency as defined in the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c.E.8, as amended, or any successor legislation thereto;

**“Supplier”** means any individual or organization offering goods and/or services including but not limited to contractors, consultants, vendors and service organizations;

**“Tender”** means a written detailed offer from a Supplier to supply goods and/or services to the Corporation;

**“Treasurer”** means the Director of Financial Services/Treasurer of the Corporation of the Municipality of South Huron.

- b. Appendices “A – D” attached hereto form part of this Policy.



## Application

3.
  - a. The policies and procedures outlined in this Policy, including all of the purposes, goals and objectives of Section 1 hereof, shall be followed for the purchase of all goods and/or services by the Corporation or any of its officers, agents, employees, boards and committees.
  - b. The Methods of Purchasing set out in Sections 11 to 23, and the Reporting Procedures set out in Section 24, shall not apply to the purchase of those goods and/or services outlined in Appendix "A".
  - c. The above provision provides authority for the purchase of goods and/or services outlined in Appendix "A" as long as the funding is available in the Budget.
  - d. Any contracts necessary to complete the purchase of goods and/or services outlined in Appendix "A" shall be signed by the appropriate Document Execution Authority as set out in Appendix "D", up to the prescribed limits provided that:
    - i. the contract has been prepared in a form satisfactory to the Clerk;
    - ii. any financial securities and insurance required under the contract are satisfactory to the Clerk and/or Treasurer; and
    - iii. funding is available in the Budget.
  - e. In determining the lowest responsible bidder, the Department Head shall consider the following in addition to price;
    - i. the ability, capacity and skill of the bidder to provide the quality of goods or services required,
    - ii. the ability of the bidder to fulfill the contract or provide the service promptly at the specified time,
    - iii. the character, reputation, integrity, experience and efficiency of the bidder,
    - iv. the quality and performance of previous contracts, goods or services undertaken by the bidder,
    - v. the sufficiency of the bidder's financial resources with respect to fulfilling the contract or providing the goods and services,
    - vi. the quality, availability and adaptability of the goods or services for the use required,
    - vii. the ability of the bidder to provide future maintenance and service, and
    - viii. the number and scope of conditions attached to the bid.

## **Accessibility Requirements**

4.
  - a. Accessibility criteria and features shall be incorporated when procuring goods, services and/or facilities in accordance with the Accessibility for Ontarians with Disabilities Act, 2001 (AODA), where practicable and feasible. All competitive bids will incorporate measures to ensure that customer service is available to everyone, including persons with disabilities. Where it is deemed not practicable to incorporate accessibility an explanation shall be provided upon request.
  - b. Contracts for the acquisition of goods and services shall include the following elements:
    - i. that the Vendor shall comply with the accessibility standards under the Accessibility for Ontarians With Disabilities Act, 2005 (AODA);
    - ii. that the Vendor shall ensure that its employees are trained on providing accessible customer services. Any training or training resources must conform to the legislated requirements under the Act; and
    - iii. that the Vendor shall maintain records of the training, including dates when training was provided, the number of employees who received training and individual training records. Where requested by the Municipality, the person, business or organization shall provide written proof, as well as any documentation regarding training policies, practices and procedures, to the Municipality.

## **Responsibilities and Authorities**

5.
  - a. The Treasurer shall have all the necessary authority to administer this policy and to carry out their related duties on behalf of the Corporation.
  - b. Department Heads are responsible for and shall have the authority to:
    - i. acquire goods and/or services;
    - ii. ensure open, fair and impartial purchasing processes for goods and/or services;

- iii. ensure compliance with this policy and advise the Treasurer when there has been non-compliance. The Treasurer shall take appropriate action to address and correct any non-compliance;
  - iv. identify accessibility requirements which should be part of the procurement process;
  - v. consider and have regard to accessibility issues as they may reasonably pertain to such acquisitions of goods and services and comply with the requirements of the municipality's accessibility obligations;
  - vi. promote the standardization of good and/or services, where such standardization demonstrates and supports the purposes, goals and objectives of this policy;
  - vii. ensure that all contract terms and conditions comply with the Bid Solicitation;
  - viii. prepare and approve all specifications and terms of reference;
  - ix. manage contracts to ensure goods and/or services are received by the Corporation and comply with contract terms and conditions;
  - x. monitor all contract expenditures and ensuring that all financial limitations have been complied with and that all accounts are paid within the times set out in the contract;
  - xi. ensure that all goods and/or services purchased have been received and invoices coded in a timely fashion.
- c. The Department Head, with the written approval of the Treasurer and CAO, may delegate to an employee or employees, all or part of the authority in Subsection 5(b) above, which authority may be limited to a particular type of goods and/or services.
  - d. The Treasurer, between the last regular Council meeting in any year and the adoption of estimates for the next year, shall have the authority to pay the 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.

### **Requirement for Approved Funds**

- 6.
  - a. The exercise of authority to award a contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Budget.

- b. Where goods and/or services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a contract is subject to the following:
  - i. the identification and availability of sufficient funds in appropriate accounts for the current year within the Budget;
  - ii. the goods and/or services will continue to be required in subsequent years and, in the opinion of the Department Head, or designate, the required funding can reasonably be expected to be made available; and
  - iii. the contract includes a provision that the supply of goods and/or services in subsequent years is subject to the approval by Council of the Budget estimates to meet the proposed expenditures.

### **Trade Agreements**

- 7.
  - a. Purchasing by the Municipality may be subject to the provisions of trade agreements.
  - b. Where an applicable trade agreement supersedes and is in conflict with this Policy, the trade agreement shall take precedence.
  - c. Department Head and/or Treasurer shall advise the appropriate Department Representative when a purchase may not conform to an applicable trade agreement as early as possible in the Bid Solicitation process.

### **Drinking Water Quality Management Standard**

- 8.
  - a. Vendors of supplies and services associated with the municipal drinking water system shall comply with the Ontario Drinking water Water Quality Standard (DWQMS) and the Municipality's DWQMS Operational Plan. The quality of supplies and services shall be confirmed through documentation of applicable accreditation, licences and certifications.
  - b. Vendors, where applicable, shall meet AWWA, ANSI, CSA or any other applicable industry standards. Supplies shall be verified against the order requisition when received. Suppliers of process chemicals shall be required to verify the quality of each product through documented certification of chemical analysis.
  - c. Vendors of "essential" supplies and services shall provide after-hours contact information which will be included in the Municipality's Water

Distribution System Contingency Plan. This information shall be updated by Vendors when contact information changes or at least annually.

### **Advertising and Bid Solicitations**

9. Bids shall be advertised where in the opinion of the CAO are most effective or where necessary to comply with all existing statutory regulations and in accordance with the Municipality's Notice Bylaw.
  - a. The Corporation's website is the official location for bid process documentation and results.
  - b. Purchases less than \$25,000 for goods and/or services may be advertised:
    - i. on the website for the Corporation and/or a website authorized by the CAO for posting bid calls, from the date that the Bid Solicitation is issued up to and including the date on which the Bid Solicitation closes; and/or
    - ii. one time, at least seven (7) calendar days before Bid Solicitation closes, in a local newspaper that has circulation within the majority area of the geographic municipal boundaries
  - c. Purchases exceeding \$25,000 for goods and/or services shall, as a minimum, be advertised;
    - i. on the website for the Corporation and/or a website authorized by the CAO for posting bid calls, from the date that the Bid Solicitation is issued up to and including the date on which the Bid Solicitation closes; and/or
    - ii. one time, at least seven (7) calendar days before the Bid Solicitation closes, in a local newspaper that has circulation within the majority area of the geographic municipal boundaries.

### **Purchasing Documentation**

10.
  - a. The use of Standard Bid documents shall be approved by the CAO and Treasurer prior to being released.
  - b. A Bid Solicitation may specify a product or brand name to ensure consistency, to minimize risk to the Municipality, or for other valid purposes.
  - c. All changes to standard Bid Solicitations and Contracts may be reviewed by legal counsel as determined by the CAO.

- d. Before issuance, all Bid Solicitations shall be reviewed by the respective Department Head and the Treasurer and CAO where applicable.

### **Methods of Purchasing**

11.

- a. Any person purchasing goods and/or services on behalf of the Municipality shall do so using one of the following methods of purchasing set out in Sections 11 to 23 ("Methods of Purchasing"). The methods may be utilized individually or in combination with one another, as may be appropriate in the circumstances.
- b. Any person purchasing goods and/or services on behalf of the Municipality is exempt from using one of the following methods of purchasing set out in Sections 11 to 23 ("Methods of Purchasing") if the purchase is with a Vendor of Record ("VOR"). The Ontario Government, through the Ministry of Government and Consumer Services which are accessible to public sector entities in Ontario. Through the VOR program, the Ontario Government has undertaken the competitive process on behalf of public sector entities. VOR purchases shall still be subject to the responsibilities for the purchasing of goods and/or services and oversight up to the value of their prescribed authority and any contracts necessary to complete the purchase of goods and/or services shall be signed by the appropriate Document Execution Authority as set out in Appendix "D", up to the prescribed limits.

### **Request for Expressions of Interest**

- 12. Department Heads may conduct a Request for Expression of Interest (RFEOI) for the purpose of determining the availability of suppliers and for the purpose of compiling a list of suppliers and may be used as a specific pre-condition of any method of Purchasing utilized by the Municipality. The receipt of an expression of interest by the Municipality does not create any obligation between the potential supplier and the Municipality.

### **Direct Purchase (Low Value Purchases – up to \$10,000 excluding taxes)**

13.

- a. Department Representatives are authorized to procure goods and/or services up to a total value of \$10,000, excluding taxes. All purchases must be approved by the Department Head. Only purchases that can be demonstrated to have been made at Fair Market Value shall be

made. Department Representatives may procure goods and/or services through the following means:

- i. direct invoice from the supplier approved and signed by the Department Head; and/or
  - ii. petty cash from the department petty cash holder and approved by the Department Head.
- b. Although low value purchases do not require an RFQ, RFP or RFT, obtaining competitive quotes is considered a good business practice and should be obtained where practicable.
  - c. Where the purchase is related to providing services, WSIB coverage and appropriate insurance where applicable must be verified prior to the commencement of the work.

**Quotations (Purchases Greater Than \$10,000 and Not Exceeding \$25,000 excluding taxes)**

14.

- a. For purchases with a total value greater than \$10,000 and not exceeding \$25,000, excluding taxes, an Informal Quotation method shall be utilized. If possible, at least three (3) written Quotations shall be solicited, analyzed and the results tabulated by the Department Head and/or designate. All suppliers shall receive the same informal quotation written information. Quotations received shall be evaluated on price and the criteria outlined in the quotation request to determine the preferred Supplier.
- b. The Purchase Requisition Form shall be prepared for signature and approval by the Department Head, Treasurer and CAO prior to the purchase.
- c. Where the purchase is related to providing services, WSIB Coverage and appropriate insurance where applicable must be verified prior to the commencement of the work.
- d. Any contracts necessary to complete the purchase of goods and/or services shall be signed by the appropriate Document Execution Authority as set out in Appendix "D", up to the prescribed limits.

**Request for Tender (RFT) (Purchases Greater Than \$25,000 excluding taxes)**

15.

- a. For purchases with a total value greater than \$25,000, excluding taxes, a Request for Tender shall be issued, provided that all of the following conditions apply:

- i. two (2) or more sources are considered capable of supplying the goods and/or services;
  - ii. the goods and/or services are adequately defined to permit the evaluation of tenders against clearly defined criteria; and
  - iii. it is intended that the lowest compliant bid will be accepted.
- b. The Department Head shall create the relevant information such as specifications, provisions, plans and supplemental general conditions for the purchase.
- c. All RFT's shall be conducted in accordance with Section 21.
- d. All RFT's shall be advertised in accordance with Section 9.
- e. Any Bid irregularities shall be dealt with in accordance with Appendix "B".
- f. The Bid Approval Report shall be prepared in accordance with Section 24.
- g. All purchases shall be authorized in accordance with the Purchasing Authorities set out in Appendix "D" and all contracts shall be signed in accordance with the Document Execution Authorities set out in Appendix "D".

**Request for Proposal (RFP) (Purchases Greater Than \$10,000 excluding taxes)**

16.

- a. A Request for Proposal (RFP) shall be issued where the Method of Purchasing meets one or more of the following criteria:
  - i. the purchase is required as a result of a particular problem, requirement or objective;
  - ii. the selection of the supplier depends more upon the effectiveness of the proposed solution, rather than the price alone;
  - iii. the precise goods and/or services, or the specifications therefore, are not known or are not definable and it is expected that suppliers will further define them.
- b. The Department Head shall provide the relevant information such as specifications, provisions, plans and supplemental general conditions for the purchase.
- c. An RFP may be reviewed by Council before it is issued where, at the discretion of the CAO, the goods and/or services to be acquired meet one or more of the following criteria:
  - i. significant value (i.e. exceeding the CAO's execution authority);
  - ii. significant public importance;



- iii. significant complexity or specialization;
- iv. there are no bids in response to a Bid Solicitation
- d. RFP's may require suppliers to submit/upload a separate document(s) which shall contain technical, financial and other information as prescribed in the Bid Solicitation.
- e. All RFP's will be evaluated based on the evaluation criteria outlined in the Bid Solicitation by Department Heads and CAO where applicable.
- f. RFP's may be issued by invitation, where in the opinion of the CAO there is an economical advantage to do so or advertised in accordance with Section 9 of this policy.
- g. Any Bid irregularities shall be dealt with in accordance with Appendix "B"
- h. The Bid Approval Report shall be prepared in accordance with Section 24.
- i. All Purchases shall be authorized in accordance with the Purchasing Authorities set out in Appendix "D" and all Contracts shall be signed in accordance with the Document Execution Authorities set out in Appendix "D".

### **Single Source Purchases**

- 17. Single Source procurement may be conducted if the goods and/or services are available from more than one source, however there are valid and sufficient reasons for selecting one supplier in particular.
  - a. Bid solicitations are not required for Single Source Purchases, provided any of the following conditions apply:
    - i. only one known supplier who can meet the technical specifications or has the required expertise/experience to provide the goods and/or service;
    - ii. same or existing equipment is in use and will utilize same spare parts inventory OR continuation of previous service;
    - iii. to provide flexibility with existing or like equipment, material and/or supplies;
    - iv. due to tight market conditions, only one supplier can provide the goods and/or service by the required on-site date;
    - v. an unforeseeable situation of urgency exists and the goods and/or services cannot be obtained in time by means of open procurement procedures;
    - vi. the Municipality has a rental contract with a purchase option and such purchase option is beneficial to the Municipality;
    - vii. there are no bids in response to a Bid Solicitation;

- viii. it is advantageous to the municipality to acquire the goods and/or services from a supplier pursuant to the procurement process conducted by another public body;
- b. The Sole-Single Source Justification Form shall be completed in its entirety and authorized by the CAO and Council prior to this method of procurement being used.
- c. The Bid Approval Report shall be prepared in accordance with Section 24.
- d. All Purchases shall be authorized in accordance with the Purchasing Authorities set out in Appendix "D" and all Contracts shall be signed in accordance with the Document Execution Authorities set out in Appendix "D".

### **Sole Source Purchases**

18. The procurement may be conducted using a Sole Source process if the goods and/or services are available from only one supplier by reason of:
- i. statutory or market based monopoly;
  - ii. competition is precluded due to the application of any Act or legislation or because of the existence of patent rights, copyrights, licence, technical secrets or controls of raw material; or
  - iii. the complete item, service, or system is unique to one supplier and no alternative or substitute exists;
- a. The Sole-Single Source Justification Form shall be completed in its entirety and authorized by the CAO and Council prior to this method of procurement being used.
  - b. The Bid Approval Report shall be prepared in accordance with Section 24.
  - c. All Purchases shall be authorized in accordance with the Purchasing Authorities set out in Appendix "D" and all Contracts shall be signed in accordance with the Document Execution Authorities set out in Appendix "D".

### **Special Circumstance Purchases**

- 19.
- a. Purchases that are required to respond to Special Circumstances as defined in Section 2 of this policy, shall be authorized in accordance with Appendix "D". All such purchases are exempt from the processes outlined under the Methods of Purchasing, but such processes may

- be followed where practical to do so, and in all instances must be reported to the CAO.
- b. Contracts required to effect Special Circumstance purchases shall be signed in accordance with the Document Execution Authorities set out in Appendix "D".
  - c. Purchases under special circumstances shall be reported to Council identifying the event or emergency which resulted in the purchase and the proposed source of funding.

## **Negotiation**

20.

- a. Notwithstanding that Negotiation may be a component of another procurement process; Negotiation may be used for purchases of goods and/or services when any of the following criteria apply:
  - i. a Sole Source is being recommended;
  - ii. two (2) or more identical Bids are received;
  - iii. the lowest compliant bid received meeting all mandatory specifications exceeds the Budget amount;
  - iv. the extension of an existing Contract would be more effective;
  - v. only one (1) Bid is received in response to a Bid Solicitation;
  - vi. there is Council authorization to do so.
- b. The Bid Approval Report shall be prepared in accordance with Section 24.
- c. All purchases shall be authorized in accordance with the Purchasing Authorities set out in Appendix "D" and all contracts shall be signed in accordance with the Document Execution Authorities set out in Appendix "D".

## **Formal Bid Process**

21.

- a. All Bids (with the exception of submissions in response to Direct Purchase and Informal Quotations) shall be received by the Department Head, in accordance with the instructions in the Bid Solicitation.
- b. Bids received shall be opened in the presence of the Department Head or designate, the Treasurer or designate and an Elected Official. The Supplier's name and the Bid amount(s) shall be read aloud and recorded unless the contents of a Bid document require validation in which case, the Bid will be reserved. If the reserved Bid is determined

to be valid, a continuation of the Bid opening will be scheduled and the results of the Bid opening will be posted.

- c. When only one (1) bid is received, only the Supplier's name shall be read aloud. The Bid amount shall not be read aloud.
- d. Bid Irregularities shall be administered in accordance with Appendix "B".

### **Co-operative Purchasing**

22. Each Department Head, in consultation with the CAO, is authorized to participate with other local governments, or their agencies, on co-operative purchasing ventures or joint contracts, on the basis of the most acceptable overall tender, in keeping with the provisions of this policy.

The CAO may enter into arrangements with other local government bodies or their agencies on a co-operative or joint basis for purchases of goods and/or services where there are economic or other advantages in so doing and such purchases comply with this Policy.

### **Finance Leasing**

23. General policies governing purchase of the goods and services shall also apply to lease and rental agreements.

Following the completion of the Request for Tender process, the respective Department Head shall follow the steps as defined in the Lease Financing Policy, attached to this policy as Appendix "C".

### **Reporting Procedures**

24. Prior to any Award, a Bid Approval Report shall be prepared by the Department Head, signed and authorized in accordance with the Purchasing Authorities set out in Appendix "D".

### **Prescribed Council Approval**

- 25.
- a. Notwithstanding any other provision of this Policy, the following Awards require Council approval:
    - i. the recommended Award exceeds the amount budgeted for the purchase;
    - ii. the Authority to Award has not been expressly delegated to staff of the Municipality
    - iii. the recommended Award is not the Lowest Compliant Bid.

- b. Council may, by resolution, waive the provisions of this policy if it is in the best interest of the Corporation to do so.

### **Document Execution Authority**

26. Employees or officers of the Municipality identified in Appendix "D" (Document Execution Authority) shall have the authority to execute Contracts and all other documents necessary to affect the Award of purchase of goods and/or services, up to the prescribed limits, provided that the documents have been prepared in a form satisfactory to the Clerk and that the award or purchase complies with this policy.

### **Financial Securities and Insurance**

27.
  - a. The CAO or Department Head may require that a bid be accompanied by a Bid Deposit or other similar security to guarantee that the successful supplier enters into a contract with the Municipality.
  - b. In addition to the security referred to in Subsection 27(a), the successful supplier may also be required to provide:
    - i. a 100% Performance Bond to guarantee the performance of the Contract; and/or
    - ii. a 100% Labour and Materials Payment Bond to guarantee the payment for labour and materials to be supplied in connection with a Contract
    - iii. an irrevocable letter of credit or such further security as may be deemed appropriate in the circumstances
  - c. Prior to the commencement of work the supplier shall provide to the Municipality proof of insurance in accordance with the Bid Solicitation.
  - d. Failure to comply with all terms and conditions of a Bid Solicitation, including failure to provide proof of insurance as required, shall be just cause for cancellation of the award.
  - e. Prior to the Municipality issuing payment to a supplier, the supplier shall provide a Certificate of Clearance from the Workplace Safety and Insurance Board, if applicable, confirming all premiums or levies have been paid to the Board to date.

### **Bid Irregularities**

28. The process for administering irregularities contained in Bids pertaining to all Bid Solicitations shall be executed in accordance with Appendix "B".

## **Form of Contract**

29.

- a. An award may require a formal written agreement.
- b. An email award may be used when the resulting Contract is straightforward and will refer to the Municipality's standard terms and conditions outlined in the Bid Solicitation.
- c. A formal written agreement satisfactory to the Clerk shall be used when the resulting Contract is complex.
- d. It shall be the responsibility of the Department Head in consultation with the Clerk to determine if it is in the best interest of the Municipality to establish a formal written agreement with the supplier.

## **Dispute Resolution**

30.

- a. The Municipality encourages competitive bidding and an open, accountable and transparent process for the purchase of goods and/or services.
- b. To maintain the integrity of the Bid Solicitation process, suppliers who believe they have been treated unfairly in a Bid Solicitation process may submit a substantive objection to the CAO providing sufficient detail regarding their complaint within:
  - i. seven (7) days from the conclusion of the Bid opening process for Request for Quotations or Request for Tenders; or
  - ii. seven (7) days from the supplier being notified of the results of a Request for Proposals.
- c. The CAO will arrange a debriefing with the supplier to explain the Bid Solicitation process that led to the selection of the successful supplier.
- d. The CAO will investigate the complaint and will make a recommendation to Council.
- e. Should a supplier continue to have concerns respecting the award and the decision, the supplier may then request, in writing to the CAO, a mediator, to assist in resolving any outstanding issues between the supplier and the Municipality.
- f. The recommended mediator will be approved by both the supplier and the Municipality.
- g. The mediator shall make their best efforts to assist the parties to reach a mutually acceptable solution.
- h. Costs for the mediator shall be equally shared by the supplier and the Municipality.

- i. Any resolution reached through the mediation process shall remain confidential if requested by either of the parties.

### **Lobbying Restrictions**

31.

- a. Suppliers, their staff members, or anyone involved in preparing a bid, shall not engage in any form of political or other lobbying whatsoever or seek to influence the outcome of the Bid Solicitation process or subsequent award. This restriction extends to all of the Municipality's staff and anyone involved in preparing a Bid Solicitation or participating in a bid evaluation process, and members of Council.
- b. The Municipality may reject any bid by a supplier that engages in such lobbying, without further consideration, and may terminate that supplier's right to continue in the Bid Solicitation process.
- c. During a Bid Solicitation process, all communications shall be made through the individual identified on the RFP, RFQ or RFT as the main contact for that particular purchase. No supplier or person acting on behalf of a supplier or group of suppliers, shall contact any elected official, consultant or any employee of the Municipality to attempt to seek information or to influence the award.
- d. Elected officials shall refer any inquiries about a Bid Solicitation process to the CAO.

### **Access to Information**

32.

- a. The disclosure of information received relevant to Bid Solicitations or Awards shall be made by the appropriate officers in accordance with the provisions of all relevant privacy legislation including primarily the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as amended.
- b. All suppliers who contract with the Municipality shall adhere to or exceed the standards set in the Municipal Freedom of Information and Protection of Privacy Act or the Personal Health Information Protection Act, 2004, S.O. 2004, c.3, Sched. A, or other relevant Ontario or Federal privacy legislation or common law as may be passed or amended from time to time, as if they were agents of the Municipality as it relates to the confidential and secure treatment, including collection, use, disclosure or retention, of personal (health) information, other confidential information of the Municipality, and all

records thereof which they come into contact with in the course of performing services or providing goods to the Municipality.

## **Compliance**

33.

- a. All persons involved in the purchase of goods and/or services provided for in this policy shall act in a manner consistent with the requirements and objectives of this policy.
- b. Purchases may not be divided into two (2) or more parts to avoid the requirements of this policy.
- c. Any goods and/or services that are obtained in contravention of this policy will be subject to investigation by the Municipality, following which the Municipality will take the necessary corrective action.
- d. Any employee of the Municipality who knowingly contravenes this policy is committing a serious act of misconduct and may be held personally liable for the full value of the purchase as well as disciplinary action up to and including termination.

## **Environmentally Sound Acquisitions**

34. Departments will endeavour to include specifications in Bid Solicitations that provide for energy efficient products, reusable products and products that contain the maximum level of post-consumer waste and/or recyclable content, without significantly affecting the intended use of the product or service. It is recognized that cost analysis is required in order to ensure that the products are competitively priced.

## **Conflict of Interest**

35.

- a. Personal purchases shall not be made for any elected or appointed officials, members of a board or committee, or for any municipal employee or their families.
- b. Every elected official, appointed officer, employee of the Municipality or a member of their family is expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order, contract is, or might be awarded, any rebate, gift or money, except:
  - i. gifts of a very small intrinsic value; or
  - ii. moderate hospitality during the normal course of business that would not significantly exceed what the Municipality, through the employee's expenses account, would likely provide in return



and would not be perceived by others as influencing the making of a business decision.

- c. All elected officials, officers or employees of the Municipality shall declare any Conflicts of Interest to the CAO and shall have no involvement in a Bid Solicitation process where a real or perceived Conflict of Interest has been found or deemed to exist, including, but not limited to:
  - i. requesting the goods and/or services, setting the parameters of the purchase, evaluating bids or recommending, deciding or making awards;
  - ii. direct contact with those making the purchasing decisions and the user department.
- d. Suppliers shall not be allowed to submit a bid for any Bid Solicitation in which the supplier has participated in the preparation of the Bid Solicitation, and any such bid submitted shall be disqualified.

### **Severability**

- 36. If any section or sections of this policy or parts thereof are found by an adjudicator or court of competent jurisdiction to be invalid or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of the policy shall be deemed to be separate and independent there from and shall continue in full force and effect unless and until similarly found invalid or beyond the power of Council to enact.

### **Policy Review**

- 37. The Treasurer shall review the effectiveness of this policy at least every five (5) years and report to Council as necessary. The treasurer shall undertake periodic reviews of this Policy and is authorized to make administrative amendments to the policy and to make additions, deletions, and amendments to Appendix "A" provided they are similar in nature to the listed documents and in accordance with the principles of this Policy.

### **Enquiries**

- 38. Treasurer  
Municipality of South Huron  
322 Main St S  
Exeter, Ontario N0M 1S6  
Telephone: 519-235-0310 Ext 229  
[sbecker@southhuron.ca](mailto:sbecker@southhuron.ca)

## **Appendix "A" to Procurement Policy**

Corporation of the Municipality of South Huron

Goods and Services exempt from provisions of the Procurement Policy. These purchases shall be made in accordance with Section 3 of this policy.

### **Training and Education**

- a. Conferences, conventions, courses and seminars
- b. Memberships
- c. Magazines, subscriptions, books, periodicals
- d. Staff development

### **Reimbursable Expenses**

- a. Meal allowances
- b. Travel and hotel accommodations
- c. Mileage
- d. Parking expenses
- e. Miscellaneous – non travel expenses

### **General Expenses**

- a. Payroll deduction remittances
- b. Payment for employment
- c. Medical
- d. Licenses (vehicles, elevators, radios, etc.)
- e. Debenture and loan payments
- f. Insurance premiums
- g. Grants/donations to agencies
- h. Petty cash replenishment
- i. Damage claims
- j. Legal and insurance settlements
- k. Legal fees and other professional services related to a legal matter
- l. Tax remittances (i.e. HST)
- m. Postage
- n. Levy requisitions to County and School Boards

### **Utilities**

- a. Water and sewer charges
- b. Hydro charges
- c. Internet connectivity charges
- d. Cable television charges
- e. Natural or propane gas
- f. Telephone/communication

### **Professional and Special Services**

- a. Committee fees
- b. Advertising
- c. Honorariums

- d. Ongoing maintenance and software licensing agreements for equipment such as computer hardware and software, telecommunications equipment and elevators
- e. Payments that are subject to cost sharing agreements
- f. Goods and/or services authorized under an agreement

All purchases of goods and/or services specifically authorized by resolution which waives the purchasing policy.

## Appendix "B" to Procurement Policy

### Actions for Irregularities contained in Bids

#### General

Irregularity	Action
Late Bids	Automatic rejection.
Failure to attend mandatory site visit (if required)	Automatic rejection.
Any Company, or principal of a Company, who has an outstanding claim or commenced legal action against the Municipality	Automatic rejection.

#### Bid Document – Execution

Irregularity	Action
Bids completed in erasable medium	Automatic rejection.
Electronic signature of representative authorized to bind the supplier missing or incomplete or absence of corporate seal authorized to bind the supplier on the prescribed form which is to be submitted in response to a Bid Solicitation. (Scanned version of physical signature is acceptable)	Automatic rejection.
Form of Proposal, Quotation or Tender missing or incomplete.	Automatic rejection.
Electronic signature of witness, if required, missing or incomplete. (Scanned version of physical signature is acceptable)	Automatic rejection.
Date of Bid missing or incomplete	Automatic rejection, unless in the opinion of the Department Head, the incomplete nature is trivial or insignificant.

#### Insufficient Financial Security

Irregularity	Action
No electronic copy of Bid Deposit, or financial security included in bid document.	Automatic rejection.
Failure to provide the original hardcopy of the bid deposit (if applicable) within five (5) working days* of the bid closing date.	Automatic rejection.

Irregularity	Action
Amount of financial security is insufficient.	Automatic rejection.
Amount of security is expressed as a percentage of the total bid sum.	Automatic rejection, unless in the opinion of the Department Head the insufficiency in the financial security is trivial or insignificant.
Amount of security is expressed only as a dollar figure.	Automatic rejection.
Name of signature of supplier is missing or incomplete.	Automatic rejection.
Seal of supplier is missing or incomplete.	Automatic rejection, unless in the opinion of the Department Head, the incomplete nature is trivial or insignificant.
Name, signature, or seal of bonding company is missing or incomplete.	Automatic rejection.
Failure to provide a letter of agreement to bond (if required).	Automatic rejection.

### Other

Irregularity	Action
Incomplete illegible or obscure Bids or Bids which contain information not called for, erasures, overwriting or strike outs (not initialed).	Two (2) working days <sup>1</sup> to correct to the satisfaction of the Department Head, otherwise automatic rejection.
Document, in which all necessary Addenda have not been acknowledged.	Two (2) working days <sup>2</sup> to confirm Bid to the satisfaction of the Department Head, if stated in the Bid Solicitation, automatic rejection.
Bid received on documents other than those provided in the Bid Solicitation.	Automatic rejection, unless allowed for in the Bid Solicitation.
Failure to insert the bidder's business name in the space provided in the Bid Solicitation form.	Automatic rejection, unless in the opinion of the Department Head, the incomplete nature is trivial or insignificant.
Mathematical errors	Two (2) working days <sup>3</sup> to initial the corrections as made by the Corporation.

<sup>1</sup> Where "working day" is specified, this is from the hour the Bidder is notified by Corporations staff of the irregularity.

<sup>2</sup> See footnote 1.

<sup>3</sup> See footnote 1.

Irregularity	Action
	Unless otherwise stated in the Bid, the unit price shall prevail and the total Bid price shall be adjusted accordingly. The Corporation reserves the right to waive initialling and accept Bid as corrected.
Qualified Bids (Bids qualified or restricted by an attached statement).	Automatic rejection.
Bids containing minor obvious clerical errors.	Two (2) working days <sup>4</sup> to confirm Bid to the satisfaction of the Department Head.
Any other irregularities.	CAO or designate shall have the authority to waive other irregularities or grant two (2) working days <sup>5</sup> to initial such other irregularities considered to be minor.
Alternate items bid in whole or in part.	Available for further consideration only if the request document invites alternative goods.

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<sup>4</sup> Where “working day” is specified, this is from the hour the Bidder is notified by Corporations staff of the irregularity.

<sup>5</sup> See footnote 4.

## **Appendix "C" to Procurement Policy**

### Lease Financing Policy

#### **Introduction**

In certain circumstances, it may be economically advisable for the Municipality to enter into a financing lease to acquire the rights to use capital property and equipment rather than an outright purchase. This policy establishes the procedures regarding the evaluation of potential financing lease agreements and the requirements for reporting the results of those procedures to Municipal Council as required under the Municipal Act, 2001, as amended, and Ontario Regulation 653/05, as amended.

#### **Statement of Policy and Goals**

In accordance with the Municipality's procurement policy, a procurement decision must always ensure that the prices paid for goods and services make optimum use of Municipality resources. When staff considers the option of a financing lease agreement, their evaluation of the option must ensure that this goal is achieved.

Adherence to the policies and procedures herein will result in a report presented to Municipal Council which clearly gives an opinion as follows;

- a) Whether or not the costs of the financing lease agreement are lower than other methods of financing available to the Municipality and
- b) Whether the risks associated with the financing lease are reasonable.

#### **Definitions**

**Financing lease** means a lease allowing for the provision of municipal capital facilities if the lease may or will require payment by the municipality beyond the term for which the municipal council was elected. Financing leases include both material leases and non-material leases.

**Material lease** means a financing lease which would result in a material impact for the municipality, which is hereinafter defined as an individual financing lease with annual payments in excess of \$10,000.

**Non-material lease** means a financing lease which would not result in a material impact or a combined impact for the municipality.

**Material impact** means costs or risks that significantly affect, or would reasonably be expected to have a significant effect on, the debt and financial obligation limit prescribed under regulations.

**Combined material impact** means the costs or risks of a proposed non-material lease which, when combined with all other non-material leases entered into or proposed to be entered into in a particular year by the municipality, would result in a material impact.

**Municipal Capital facilities** include land, works, equipment, machinery and related systems and infrastructures.

### **Payment Schedule**

A financing lease agreement must include a schedule of all fixed amount of payment, if any, required under the lease and that may be required under any possible extensions or renewals of the lease.

### **Treasurer's Report**

Before entering into a material lease, the Treasurer shall prepare a report to Council with recommendations, assessing, in the opinion of the Treasurer, the costs and financial and other risks associated with the proposed financing lease, including;

- A comparison between the fixed and estimated costs and the risks associated with the proposed lease and those associated with other methods of financing,
- A statement summarizing, as may be applicable, the effective rate or rates of financing for the lease, the ability for the lease payment amounts to vary, and the methods or calculations, including possible financing rate changes, that may be used to establish that variance under the lease,
- A statement summarizing any contingent payment obligations under the lease that in the opinion of the Treasurer would result in a material impact for the municipality, including lease termination provisions, equipment loss, equipment replacement options and guarantees and indemnities,
- A summary of the assumptions applicable to any possible variations in the lease payment and contingent payment obligations, and
- Any other matters the Treasurer or Council considers advisable including whether the scope of the financing lease warrants obtaining independent financial advice.



**Legal Advice**

The report may include legal advice on the provisions of the proposed financing lease agreement.

**Change in Circumstances**

At any time after a report regarding a potential financing lease agreement has been made, but before the agreement is entered into, if the Treasurer becomes of the opinion that a changed circumstance with respect to the proposed lease may result in a material impact for the municipality, the Treasurer shall as soon as is reasonably possible update the report and present the updated report to Council.

**Annual Reporting**

In accordance with Ontario Regulation 266/02, as amended, the Treasurer shall prepare an annual report and present to Council if the municipality has any financing leases subsisting in the fiscal year.

**Exemptions – Non-material leases**

A financing lease may be entered into without complying with this policy if the financing lease is deemed by the Treasurer not to materially impact the Municipality's debt and financial obligation repayment limit. The definition of material impact to be considered by the Treasurer in making this determination is included in the definitions section of this policy.

## Appendix "D" to Procurement Policy

### Execution Authority

<b>Purchasing Method</b>	<b>Value</b>	<b>Purchasing Authority<sup>6</sup></b>	<b>Department Head (Approval Required)</b>	<b>Treasurer (Approval Required)</b>	<b>CAO (Approval Required)</b>	<b>Council (Approval Required)</b>	<b>Document Execution Authority</b>
Direct Purchase	up to \$10,000	Department Representative	Yes	No	No	No	Department Head
Quotation	\$10,001 - \$25,000	Department Head	Yes	Yes	Yes	No	Department Head and CAO, or Mayor and Clerk where applicable
Request for Proposal	> \$10,000	Department Head	Yes	Yes	Yes	Yes	Department Head, CAO or Mayor and Clerk where applicable
Request for Tender	> \$25,000	Department Head	Yes	Yes	Yes	Yes	Mayor and Clerk
Single Source & Sole Source Purchases	> \$10,000	Department Head	Yes	Yes	Yes	Yes	CAO or Mayor and Clerk where applicable
Negotiation	> \$10,000	Department Head	Yes	No	Yes	Yes	CAO or Mayor and Clerk where applicable
Special Circumstances	> \$10,000 - \$50,000	Department Head	Yes	No	Yes	No	CAO
Special Circumstances	> \$50,000	CAO	Yes	No	Yes	No	CAO

<sup>6</sup> "Purchasing Authority" means those positions listed, and includes any position which is higher in the Corporation's reporting structure.