

THE CORPORATION OF THE MUNICIPALITY OF HURON SHORES

BY-LAW #22-65

A BY-LAW TO AMEND THE POLICY FOR PROCUREMENT OF GOODS AND SERVICES FOR THE MUNICIPALITY OF HURON SHORES, KNOWN AS THE PROCUREMENT POLICY & TO RESCIND BY-LAW #13-15.

WHEREAS the *Municipal Act*, 2001 and amendments thereto, provides that Councils shall adopt policies with respect to its procurement of goods and services;

AND WHEREAS the Municipality will acquire goods and services only in a manner that complies with this By-law and its Purchasing Policy and appropriate purchasing principles for the public sector, reflects a high standard of business ethics and does not favour or discriminate, and is cost effective and results in the best value for the Municipality of Huron Shores;

NOW THEREFORE THE COUNCIL OF THE MUNICIPALITY OF HURON SHORES HEREBY ENACTS AS FOLLOWS:

1. THAT the Procurement Policy, as amended, attached hereto as Schedule 'A', forms part of this By-law;
2. AND THAT the Mayor and Clerk are hereby authorized to sign this By-Law and to affix the corporate seal thereto;
3. AND THAT By-Law #13-15 is hereby rescinded.

READ a first, second and third time and passed in open Council this 13th day of July, 2022.

MAYOR – Georges Bilodeau

CLERK – Natashia Roberts

THE CORPORATION OF THE MUNICIPALITY OF HURON SHORES

PROCUREMENT POLICY

POLICY TITLE: Procurement of Goods and Services	EFFECTIVE DATE: July 13 th , 2022
POLICY #: 13-05-04	BY-LAW #: 22-65 – Schedule 'A'

INDEX

SECTION	TITLE	PAGE
1	PREAMBLE.....	4
2	POLICY STATEMENT	4
3	RESPONSIBILITIES.....	4
4	DEFINITIONS.....	4-5
5	PROCUREMENT PROCESS	5
6	REGULATIONS	5-10
6.1	- Restrictions	5-6
6.2	- Conflict of Interest	6-7
6.3	- Co-Operative Purchasing	7
6.4	- Non-Competitive Purchases	8
6.5	- Purchasing Procedures.....	8-9
6.5.1	- Purchasing Responsibilities	8
6.5.2	- Purchasing Prior to Passing of Current Year Budget...8	
6.5.3	- Cancellation of Bid Solicitation	8
6.5.4	- Access to Information	8
6.5.5	- Contract Without Budgetary Approval	9
6.5.6	- General Purchases.....	9
6.5.7	- Emergency Purchases	9
6.6	- Re-Allocation of Costs.....	9
6.7	- Year-To-Date Reviews	9
7	TYPES OF PROCUREMENT.....	10-19
7.1	- Petty Cash	10
7.1.1	- Amount of Purchase	10
7.1.2	- Authority.....	10
7.1.3	- Process	10
7.1.4	- Replenishing Fund	10
7.2	- Direct Acquisition	10
7.2.1	- Amount of Purchase	10
7.2.2	- Authority.....	10
7.2.3	- Process	10
7.3	- Written Quotations	10-11
7.3.1	- Amount of Purchase	10
7.3.2	- Authority.....	10
7.3.3	- Process	11
7.4	- Tendering	11-16
7.4.1	- Amount of Purchase	11
7.4.2	- Authority.....	11
7.4.3	- Process	11-12
7.4.4	- Bid Irregularities	12-13
7.4.5	- Procurement Documentation.....	13
7.4.6	- Guarantee of Contract Execution and Performance 13-14	
7.4.7	- Evaluation of Bids Received and Award	14
7.4.8	- Bids in Excess of Project Estimates	15
7.4.9	- Contractual Agreements.....	15
7.5	- Request for Proposal	15-19
7.5.1	- Amount of Purchase	15
7.5.2	- Authority.....	15

7.5.3	- Process	15-16
7.5.4	- Bid Irregularities	16-17
7.5.5	- Procurement Documentation.....	17
7.5.6	- Guarantee of Contract Execution and Performance	17-18
7.5.7	- Evaluation of Bids Received and Award	18
7.5.8	- Bids in Excess of Project Estimates	18-19
7.5.9	- Contractual Agreements.....	19
8	SUPPLIER PERFORMANCE	19
9	CONTRACT RENEWAL OPTIONS.....	19
10	EXECUTION AND CUSTODY DOCUMENTS	20
11	REVIEW AND EVALUATION	20
Appendix I	Expense Report.....	21
Appendix II	Procurement Type	22
Appendix III	Quotations Log –
	Written Quotations.....	23
Appendix IV	Tender Log 24
Appendix V	Procurement Policy (Description Irregularities).....	25

SECTION 1

PREAMBLE

- 1.1 The Council of the Municipality of Huron Shores has ascertained that a procurement policy is required:
- To encourage competition among bidders;
 - To obtain the highest quality of goods and services for the best possible price;
 - To ensure that the procurement process is conducted in an efficient and effective manner;
 - To ensure fairness among bidders;
 - To ensure openness, accountability and transparency while protecting the financial interests of the municipality.

SECTION 2

POLICY STATEMENT

- 2.1 It shall be the policy of the Corporation to ensure a fair purchasing policy which is, administratively, easy to manage.

SECTION 3

RESPONSIBILITIES

- 3.1 The Treasurer shall be responsible for the execution of this policy.
- 3.2 Department Heads or those designated by resolution of Council as Department Heads shall be responsible for the purchase of goods or services, which are not maintained in the warehouse or office supplies inventory.

SECTION 4

DEFINITIONS

- 4.1 **"Best Value"** shall not be limited to the lowest price but shall be a combination of price and quality. Such determination shall be left to the discretion of those as set out within the Procurement Policy.
- 4.2 **"Capital Project"** shall refer to a project that has been budgeted within the annual Capital Budget or if not budgeted, shall refer to projects that would normally appear within the Capital expenditures of the municipality.
- 4.3 **"Child"** means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family ("enfant").
- 4.4 **"Clerk"** shall refer to the Clerk of the Corporation or deemed alternate.
- 4.5 **"Corporation"** shall mean the Corporation of the Municipality of Huron Shores or its successors.
- 4.6 **"Council"** shall mean the Council of the Corporation of the Municipality of Huron Shores.
- 4.7 **"Department Head"** shall refer to anyone who has responsibility for an annual budget, and shall include both Staff Department Heads and Board/Committee Chairs and/or those designated to act in said capacity.
- 4.8 **"Immediate Family Member"** shall mean a parent, spouse, or child.

- 4.9 "Municipality"** shall mean the Corporation of the Municipality of Huron Shores.
- 4.10 "Parent"** means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child ("père ou mère").
- 4.11 "Spouse"** means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage ("conjoint").
- 4.12 "Treasurer"** shall refer to the Treasurer of the Corporation or deemed alternate.

SECTION 5

PROCUREMENT PROCESS

- 5.1** Refer to Section 7 for types of purchasing and Appendix 'II' for a summary table. Notwithstanding the limits outlined, a more stringent procurement method is permitted when deemed appropriate.

SECTION 6

REGULATIONS

6.1 Restrictions

- 6.1.1 Only those forms of procurement identified in Section 7 shall be permitted, unless prior approval is obtained by Council resolution.
- 6.1.2 Notwithstanding the above, adherence to this purchasing policy is not required with respect to those items listed below:
- utilities, including postage, water/sewer charges, hydro, natural gas, telephone, etc.;
 - payroll and payments to Government agencies, carriers or unions;
 - Boards and Committees levies;
 - vehicle licences;
 - Council honoraria;
 - courier and other shipping charges;
 - licences, certificates and other approvals required;
 - subscriptions and memberships;
 - training and education;
 - refundable employee expenses;
 - ongoing maintenance for existing computer hardware and software;
 - Professional and skilled services provided to individuals as part of approved programs within Corporate or Community Services;
 - Engineering consulting services;
 - Other Professional and special services: including but not limited to, Accounting and Auditing services; Insurance services; Legal services; banking services; realty services regarding the lease, acquisition, sale of land and appraisal of land; group benefits; and Professional Artistic services;
 - Policing contracts;
 - reciprocal or shared agreements.
- 6.1.3 No contract for goods, services or construction may be divided into two or more parts to avoid the application of the provisions of this by-law.

- 6.1.4 No contract for services shall be awarded where the services would result in the establishment of an employee-employer relationship.
- 6.1.5 Only those individuals authorized by Council to purchase on behalf of the Municipality in accordance with this policy shall be permitted to contact bidders in writing as soon as practicable during the procurement process in instances where clarification about the procurement is necessary. No one involved in the procurement process is permitted to contact bidders during the evaluation process.
- 6.1.6 No one associated with the Municipality, including individual members of Council and individual employees shall accept any gifts with a value greater than \$100.00 from suppliers.
- 6.1.7 If a Department Head considers purchasing a good or service from a Council member, employee or immediate family member of an employee or Council member, and the purchase is more than \$1,000.00 per purchase, then two written quotations must be obtained and filed.
- 6.1.8 The Municipality shall not consider In-House bids as an acceptable procurement process.

6.2 Conflict of Interest

6.2.1 Employees:

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

- shall immediately disclose the interest and the general nature thereof to Council;
- shall not take part in the award of the contract; and
- shall not attempt in any way to influence the award of the contract.

6.2.1.2 An employee has an indirect pecuniary interest in any contract in which the Municipality is concerned, if the employee, or his or her nominee, as the case may be,

- is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public, that has a pecuniary interest in the contract;
- has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public, that has a pecuniary interest in the contract; or
- is a member of a body that has a pecuniary interest in the contract; or
- is a partner of a person or is in the employment of a person or body, that has a pecuniary interest in the contract;

6.2.1.3 The pecuniary interest, direct or indirect, of a parent or the spouse or any child of the employee shall, if known to the employee, be deemed to be also the pecuniary interest of the employee.

6.2.2 Council Members:

6.2.2.1 Where a member of Council, either on his/her own behalf or while acting for, with or through another person, has any pecuniary interest, direct or indirect, in the contract, the Council Member

- shall immediately disclose the interest and the general nature thereof to Council;
- shall not take part in the award of the contract; and
- shall not attempt in any way to influence the award of the contract.

6.2.2.2A member of Council has an indirect pecuniary interest in any contract in which the municipality is concerned, if the member of Council, or his or her nominee, as the case may be,

- is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public, that has a pecuniary interest in the contract;
- has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public, that has a pecuniary interest in the contract; or
- is a member of body that has a pecuniary interest in the matter; or
- is a partner or a person or is in the employment of a person or body that has a pecuniary interest in the contract.

6.2.2.3 The pecuniary interest, direct or indirect, of a parent or the spouse or any child of the member of Council shall, if known to the member of Council, be deemed to be also the pecuniary interest of the member of Council.

6.3 Co-Operative Purchasing

The Municipality may participate with other government agencies and/or local boards in co-operative purchasing where it is in the best interests of the Municipality to do so. The policies of the government agency or local board calling the co-operative tender are to be the governing policy for that particular tender.

6.4 Non-Competitive Purchases

6.4.1 Sole Source Purchases:

Exemption from this policy is granted in circumstances where there is only one supplier available and no alternative or substitute exists and/or where there is a statutory monopoly on the product or service.

6.4.2 Single Source Purchases:

Exemption from this policy is granted in circumstances where the Municipality deems it desirable to award a non-competitive contract for follow-on goods or services after the completion of a competitive contract provided that the possibility of a follow-on contract is identified in the original bid solicitation.

6.5 Purchasing Procedures

6.5.1 Purchasing Responsibilities

The Council has the responsibility for procurement activities, and has ultimate authority for all expenditures. All contracts are subject to Council approval. The Council may delegate, by resolution, staff members who shall have the authority to purchase goods and/or services within the boundaries of this policy. The Treasurer cannot pay for any items that have not been authorized by the Council through budget approvals, specific resolution, or subject to

6.5.2 of The Procurement Policy. The purchasing policy provides guidelines outlining how spending authority is to be used.

6.5.2 Purchasing Prior to Passing of Current Year Budget

Council shall allow for day-to-day departmental purchasing prior to the passing of the current year budget according to the following:

- Departments shall be authorized for day-to-day operations, to expend up to an amount not to exceed fifty percent (50%) of the previous year's budget without prior Council approval provided all other procurement policies are met;
- Major purchases not of normal annual operational nature, shall require Council approval prior to the purchase.

6.5.3 Cancellation of Bid Solicitation

The Council may cancel a bid solicitation at any time up to the contract award.

6.5.4 Access to Information

The disclosure of information requests made in writing to Council, relevant to the issue of bid solicitations or the award of contracts emanating from bid solicitations shall be in accordance with the provisions of the *Municipal Freedom and Protection of Privacy Act*, as amended.

6.5.5 Contract Without Budgetary Approval

Where a requirement exists to initiate a project for goods, services or construction and funds are not contained within the approved budget, the Department Head requesting the goods/services shall, prior to commencement of the purchasing process, submit a report to Council containing:

- information surrounding the requirement to contract;
- the terms of reference to be provided in the contract;
- information on the availability of the funds within existing estimates that were originally approved by Council for other purposes, or on the requirement of additional funds.

6.5.6 General Purchases

All purchases shall be done through the Treasury Department as policy dictates.

6.5.7 Emergency Purchases

6.5.7.1 This procedure recognizes that there may occur circumstances where the health, safety or life of the citizens of the Municipality may be in jeopardy. Under these conditions, an emergency purchase shall be permitted.

6.5.7.2 The Department Head or designate may, under these circumstances, circumvent the policy to effect an emergency purchase. A purchase may be made to obtain the required supplies or services regardless of the amount.

6.5.7.3 The next business day, the responsible Department Head shall prepare the necessary requisition outlining the required information, noting the emergency circumstances.

6.5.8.4 The Department Head shall be responsible to file a complete report on the circumstances with the Treasurer as soon as possible, for presentation to Council at the next Regular Meeting of Council.

6.6 Re-Allocation of Costs

If through an analysis of accounts, a Department Head identifies that a reallocation of funds is required, the Department Head must advise the Treasurer of the amounts and accounts affected. The Treasurer will report this activity to the Finance Committee as it occurs, if necessary.

6.7 Year-To-Date Reviews

Year to date department/committee comparison reports are provided monthly following passage of the annual budget.

SECTION 7

TYPES OF PROCUREMENT

See Appendix 'I' for Summary Table.

7.1 Petty Cash

7.1.1 Amount of Purchase:

\$0.01 to \$199.00, where invoicing of item is not feasible.

7.1.2 Authority:

Department Head is permitted to purchase goods and/or services without receiving Council approval, providing there is an allowance in the current annual budget for the expenditure.

7.1.3 Process:

Department Head to request Petty Cash from Treasury Department. Petty Cash Voucher must be completed and receipt attached.

7.1.4 Replenishing Fund:

Petty cash shall be replenished through a request to the Treasurer, which contains all receipts, account charges and a proper reconciliation of the fund. Petty Cash reconciliation is to be completed, as required, and filed with the Treasurer.

7.2 Direct Acquisition

7.2.1 Amount of Purchase:

\$0.01 to \$2,499.00

7.2.2 Authority:

Department Head is permitted to purchase goods and/or services without Council and/or Committee approval, providing there is an allowance in the current annual budget for the expenditure.

7.2.3 Process:

All purchases must be made through the Receptionist/Accounting Assistant, unless otherwise arranged with the Treasurer. All purchases must be paid either by Municipal credit card or by invoicing, unless otherwise arranged with the Treasurer. Should the Department Head be required to pay for an item directly, he/she must obtain a receipt from the vendor and immediately file an Expense Report (Appendix 'I') with the Treasurer.

7.3 Written Quotations

7.3.1 Amount of Purchase

\$2,500.00 to \$74,999.00

7.3.2 Authority

Department Head is permitted to purchase goods and/or services provided that:

- if the expenditure is included in the current budget, approval is obtained from Treasurer; or
- if the expenditure is not included in the current budget, approval is obtained by resolution of Council.

7.3.3 Process:

- where possible, a minimum of three written quotations are obtained;

- if three written quotations cannot be obtained, Department Head must provide explanation in "Quotations Log" (Appendix 'III');
- "Quotations Log" is provided to Treasurer with a recommendation from the Department Head;
- If not included in the annual budget, Council shall make the final decision, by resolution, based on the quotations provided;
- complete "Quotations Log", including signature of the Department Head; and, if necessary, Council Resolution; and Treasurer to signify approval of expenditure.

7.4 Tendering

7.4.1 Amount of Purchase:

\$75,000.00 and up

7.4.2 Authority:

Resolution of Council

7.4.3 Process:

7.4.3.1 Tenders may be called either by public advertising or invitation only.

7.4.3.2 Public advertisements must include the following information:

- site meeting (if applicable) – time, date and location;
- contact names for technical and purchasing inquiries;
- document fee (if applicable);
- location for picking up tender packages;
- location for dropping off tender packages;
- deadline for submission of tender packages; and
- the privilege clause: "Lowest or any bid may not necessarily be accepted".

7.4.3.3 The closing date shall be a minimum of 10 calendar days after the date of advertising or the date of invitation. However, a tender may be closed in a shorter period of time depending on the urgency of the matter.

7.4.3.4 Depending on the complexity of the item(s) being purchased, Council may obtain professional assistance from qualified individuals to assist with the preparation and competition of the tender specifications.

7.4.3.5 All tender submissions must be addressed to the Clerk and returned in a sealed envelope appropriately identified as to contents. Upon receipt of a tender, the Clerk shall:

- record date and time on the sealed envelope;
- assign a tender number to the tender package and record the submission on the "Tender Log" (Appendix 'IV'); and
- deposit the sealed tender in a tender envelope or box.

7.4.3.6 The Clerk shall refuse to accept any tender submission that is:

- not sealed;
- received after the closing deadline. Clerk, or designate is to record on the late tender received, the date and time received and make a copy of the sealed envelope to retain on file. The original Envelope to be returned to the bidder;
- submitted after a tender has been cancelled.

7.4.3.7 Requests for withdrawal of a tender shall be allowed if the request is made by the bidder in writing before the closing time for the contract to which it applies. A senior official of the company must direct requests to the Clerk by letter or in person, with a signed withdrawal confirming the details. Telephone requests

will not be considered. The withdrawal of a tender does not disqualify the bidder from submitting another tender on the same contract.

7.4.3.8 Tenders close at 4:00 p.m. on the appointed day, and are opened publicly at 4:10 p.m. (unless otherwise specified in the tender documents) in the presence of the Clerk, or designate, and at least one (1) staff member. The amount of each bid shall be recorded on the "Tender Log".

7.4.3.9 The Clerk shall review each tender to determine whether a bid irregularity exists, and action is taken according to the nature of the irregularity. For List of bid irregularities see Appendix "V".

7.4.3.10 The Clerk shall submit a report for consideration by Council and approval shall be by resolution. Such report shall include:

- List of rejected bids and reasons for the rejection;
- A recommendation in support of one of the bids; and
- The rationale for this recommendation.

7.4.4 Bid Irregularities

7.4.4.1 For the purposes of this policy, bid irregularities are further classified as "major" irregularities or "minor" irregularities. See Appendix "V" for types of irregularities and their classification.

7.4.4.2 Major irregularity is a deviation from the bid request that affects the price, quality, quantity or delivery, and is material to the award. If the deviation is permitted, the bidder could gain an unfair advantage over competitors. The Council must reject any bid, which contains a major irregularity.

7.4.4.3 Minor irregularity is a deviation from the bid request, which affects form, rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. If the deviation is permitted or corrected, the bidder would not gain an unfair advantage over competitors. The Council may permit the bidder to correct a minor irregularity.

7.4.4.4 The Clerk will be responsible for all action taken in dealing with bid irregularities, and acts in accordance with the nature of the irregularity:

- Major irregularity – automatic rejection
- Minor irregularity – bidder may rectify.

7.4.4.5 In the event that the successful bidder withdraws the bid due to the identification of a major irregularity before Council enters into a written contract with that bidder, Council, by resolution, may disqualify such vendor from participating in further quotations and tenders for a period of a minimum of one year.

7.4.5 Procurement Documentation

7.4.5.1 Procurement documentation for bid requests shall not use specific products or brand names unless such name is to be used for example purposes.

7.4.5.2 The use of standards in procurement that have been certified, evaluated, qualified, registered or verified by independent and nationally recognized and industry-supported organizations such as the Standards Council of Canada shall be preferred.

7.4.5.3 Notwithstanding Clause 7.4.5.1, Council may specify a specific product or brand name for essential functionality purposes to avoid unacceptable risk or for some other valid purpose. In such instances, Council shall manage the procurement in order to achieve a competitive situation if possible.

7.4.6 Guarantee of Contract Execution and Performance

7.4.6.1 Council may require that a bid bond or other similar security to guarantee entry into a contract shall be submitted with all bids. Unless otherwise specified, in circumstances where a bid bond or other security is required, the refundable deposit requirements for Request for Tenders shall be a minimum of 10%.

7.4.6.2 Prior to commencement of the work, the successful bidder may be required to provide the following security in addition to the security provided to in Clause 7.4.6.1.

- A performance bond, percentage to be pre-determined in original tender documents, to guarantee the performance of a contract; and
- A payment bond, percentage to be pre-determined in original tender documents, to guarantee the payment for labour and materials supplied in connection with a contract.

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

7.4.6.4 Prior to the commencement of work, evidence of Health & Safety Policy, Safety Orientation, Liability and Workplace Safety Insurance coverage satisfactory to the Municipality must be obtained, ensuring indemnification of the Municipality from any and all claims, demands, losses, costs or damages resulting from the performance of a Bidder's obligations under the contract and from any risk determined by the Municipality as requiring coverage.

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

7.4.7 Evaluation of Bids Received and Award

7.4.7.1 The Clerk and Department Head requesting the goods/services shall review all bids against the established criteria and reach consensus on the final rating results and the Clerk shall ensure that the final rating results are kept with the procurement file.

7.4.7.2 The Clerk shall submit a summary of the procurement and provide a recommendation to Council respecting award of contract to the bidder whose bid meets all mandatory requirements as specified in the bid solicitation and provides best value to the municipality based on the evaluation criteria specified in the bid solicitation.

7.4.7.3 In the event that more than one bidder has submitted a tender in the same amount, Council shall make its decision based on the merit of the bid (i.e. including such factors as time for completion and previous performance of the bidder). If the merit for each bid is equal, then the bid to be accepted shall be decided by means of a draw. The names of the tied bidders shall be placed in a container and the bid to be awarded shall be drawn by a member of Council. The Clerk shall set the time and location of the draw and notify the bidders in order that they may be present.

7.4.7.4 Awards shall typically be made to the lowest bidder who has complied with the terms and conditions in the Request for Quotation or Request for Tender, all other factors being equal. In addition to price, consideration of factors as set out below may result in the acceptance of a bid other than the lowest bid:

- Ability and experience to perform in accordance with the Terms of the Invitation
- Record of past performance with Council
- Past performance with other municipalities or boards
- Financial and technical resources
- Knowledge of the Municipality's operations, systems and services
- Compatibility with other goods and services of the Municipality
- Any other factors, including a scoring system which may be used by Council in evaluating bids received
- All bid requests shall include the privilege clause "The lowest or any bid may not necessarily be accepted". When using such privilege clause the specific reasons for not accepting the bids shall be disclosed to all bidders.

7.4.8 Bids in Excess of Project Estimates

7.4.8.1 Where bids are received in response to a bid solicitation but exceed the project estimates, the Clerk, with the authority of Council, may enter into negotiations with the Lowest Responsive Bidder to attempt to achieve an acceptable bid within the project estimate.

7.4.8.2 Council may cancel a competition or call a new competition when an original bid cannot be negotiated that falls within budget limits.

7.4.9 Contractual Agreements

7.4.9.1 The award of a Tender contract shall be made by way of resolution of Council only.

7.4.9.2 A formal agreement, approved by by-law, may be used when the contract is complex and will contain terms and conditions other than Council's standard terms and conditions.

7.4.9.3 Council shall approve any/all changes in a contract that affect price or terms of the original contract.

7.4.9.4 All contracts shall specify conditions under which the contract may be terminated by either Council or the bidder.

7.5 Request for Proposal (RFP)

Requests for proposal may be used when Council requires a unique proposal designed to meet a broad outcome to a complex problem or need for which there is no clear or single solution.

7.5.1 Amount of Purchase:
No limits

7.5.2 Authority:
Resolution of Council

7.5.3 Process:

7.5.3.1 Proposals may be called either by public advertising or invitation only.

7.5.3.2 Public advertisements must include the following information:

- site meeting (if applicable) – time, date and location;
- contact names for technical and purchasing inquiries;
- document fee (if applicable);
- location for picking up RFP document packages;
- location for dropping off proposal packages;
- deadline for submission of proposal packages; and
- the privilege clause: “Lowest or any bid may not necessarily be accepted”.

7.5.3.3 The closing date shall be a minimum of 10 calendar days after the date of advertising or the date of invitation. However, an RFP may be closed in a shorter period of time depending on the urgency of the matter.

7.5.3.4 Depending on the complexity of the request, Council may obtain professional assistance from qualified individuals to assist with the preparation and competition of the specifications (if applicable).

7.5.3.5 All RFP submissions must be addressed to the Clerk and returned in a sealed envelope appropriately identified as to contents. Upon receipt of an RFP, the Clerk shall:

- record date and time on the sealed envelope;
- assign a bid number to the RFP package and record the submission on the “Tender Log”; and
- deposit the sealed RFP in an envelope or box specified for that purpose.

7.5.3.6 The Clerk shall refuse to accept any RFP submission that is:

- not sealed;
- received after the closing deadline. Clerk, or designate is to record on the late RFP received, the date and time received and make a copy of the sealed envelope to retain on file. The original Envelope to be returned to the bidder;
- submitted after an RFP has been cancelled.

7.5.3.7 Requests for withdrawal of an RFP shall be allowed if the request is made by the bidder in writing before the closing time for the contract to which it applies. A senior official of the company must direct requests to the Clerk by letter or in person, with a signed withdrawal confirming the details. Telephone requests will not be considered. The withdrawal of a tender does not disqualify the bidder from submitting another RFP on the same contract.

7.5.3.8 Tenders close at 4:00 p.m. on the appointed day, and are opened publicly at 4:10 p.m. (unless otherwise specified in the tender documents) in the presence of the Clerk, or designate, and at least one (1) staff member. The amount of each bid shall be recorded on the “Tender Log”.

7.5.3.9 The Clerk shall review each tender to determine whether a bid irregularity exists, and action is taken according to the nature of the irregularity. For List of bid irregularities see Appendix “V”.

7.5.3.10 The Clerk shall submit a report for consideration by Council and approval shall be by resolution. Such report shall include:

- List of rejected bids and reasons for the rejection
- A recommendation in support of one of the bids
- The rationale for this recommendation

7.5.4 Bid Irregularities

7.5.4.1 For the purposes of this policy, bid irregularities are further classified as “major” irregularities or “minor” irregularities. See Appendix “V” for types of irregularities and their classification.

7.5.4.2 Major irregularity is a deviation from the bid request that affects the price, quality, quantity or delivery, and is material to the award. If the deviation is permitted, the bidder could gain an unfair advantage over competitors. The Council must reject any bid, which contains a major irregularity.

7.5.4.3 Minor irregularity is a deviation from the bid request, which affects form, rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. If the deviation is permitted or corrected, the bidder would not gain an unfair advantage over competitors. The Council may permit the bidder to correct a minor irregularity.

7.5.4.4 The Clerk will be responsible for all action taken in dealing with bid irregularities, and acts in accordance with the nature of the irregularity:

- Major irregularity – automatic rejection
- Minor irregularity – bidder may rectify.

7.5.4.5 In the event that the successful bidder withdraws the bid due to the identification of a major irregularity before Council enters into a written contract with that bidder, Council, by resolution, may disqualify such vendor from participating in further quotations and tenders for a period of a minimum of one year.

7.5.5 Procurement Documentation

7.5.5.1 Procurement documentation for bid requests shall not use specific products or brand names unless such name is to be used for example purposes.

7.5.5.2 The use of standards in procurement that have been certified, evaluated, qualified, registered or verified by independent and nationally recognized and industry-supported organizations such as the Standards Council of Canada shall be preferred.

7.5.5.3 Notwithstanding Clause 7.5.5.1, Council may specify a specific product or brand name for essential functionality purposes to avoid unacceptable risk or for some other valid purpose. In such instances, Council shall manage the procurement in order to achieve a competitive situation if possible.

7.5.6 Guarantee of Contract Execution and Performance

7.5.6.1 Council may require that a bid bond or other similar security to guarantee entry into a contract shall be submitted with all bids. Unless otherwise specified, in circumstances where a bid bond or other security is required, the refundable deposit requirements for Request for Tenders shall be a minimum of 10%.

7.5.6.2 Prior to commencement of the work, the successful bidder may be required to provide the following security in addition to the security provided to in Clause 7.5.6.1.

- A performance bond, percentage to be pre-determined in original tender documents, to guarantee the performance of a contract, and
- A payment bond, percentage to be pre-determined in original tender documents, to guarantee the payment for labour and materials supplied in connection with a contract

7.5.6.3 Council shall select the appropriate means to guarantee execution and performance of the contract. Means may include one or more of, but are not limited to, certified cheque, bank draft, irrevocable letter of credit, money-order and, where appropriate, a bid bond issued by an approved guarantee

company properly licensed in the province of Ontario, on bond forms acceptable by Council.

7.5.6.4 Prior to the commencement of work, evidence of Health & Safety Policy, Safety Orientation, Liability and Workplace Safety Insurance coverage satisfactory to the municipality must be obtained, ensuring indemnification of the municipality from any and all claims, demands, losses, costs or damages resulting from the performance of a Bidder's obligations under the contract and from any risk determined by the municipality as requiring coverage.

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

7.5.7 Evaluation of Bids Received and Award

7.5.7.1 The Clerk, Department Head and Council or Committee of Council requesting the goods/services, shall review all bids received. Because bids may range in services/items to be provided, a pros and cons chart is to be completed for each bid, with final recommendations compiled in a Report.

7.5.7.2 The Clerk shall submit the Report to Council for award of contract to the bidder whose bid meets all desires of the Council and provides best value to the Municipality.

7.5.7.3 In the event that more than one bidder has submitted a tender in the same amount for the same product/outcome, Council shall make its decision based on the merit of the bid (i.e. including such factors as time for completion and previous performance of the bidder). If the merit for each bid is equal, then the bid to be accepted shall be decided by means of a draw. The names of the tied bidders shall be placed in a container and the bid to be awarded shall be drawn by a member of Council. The Clerk shall set the time and location of the draw and notify the bidders in order that they may be present.

7.5.7.4 Awards shall typically be made to the lowest bidder whose proposal meets the desires of Council. In addition to price, consideration of factors as set out below may result in the acceptance of a bid other than the lowest bid:

- Ability and experience to perform in accordance with the Terms of the Invitation
- Record of past performance with Council
- Past performance with other municipalities or boards
- Financial and technical resources
- Knowledge of the Municipality's operations, systems and services
- Compatibility with other goods and services of the municipality
- Any other factors, including the pros and cons summary used to assess the proposals
- All bid requests shall include the privilege clause "The lowest or any bid may not necessarily be accepted". When using such privilege clause the specific reasons for not accepting the bids shall be disclosed to all bidders.

7.5.8 Bids in Excess of Project Estimates

7.5.8.1 Where bids are received in response to a proposal solicitation but exceed the project estimates, the Clerk, with the authority of Council, may enter into negotiations with the Lowest Responsive Bidder to attempt to achieve an acceptable bid within the project estimate.

7.5.8.2 Council may cancel a competition or call a new competition when an original bid cannot be negotiated that falls within budget limits.

7.5.9 Contractual Agreements

7.5.9.1 The award of a Tender contract shall be made by way of resolution of Council only.

7.5.9.2 A formal agreement, approved by by-law, may be used when the contract is complex and will contain terms and conditions other than Council's standard terms and conditions.

7.5.9.3 Council shall approve any/all changes in a contract that affect price or terms of the original contract.

7.5.9.4 All contracts shall specify conditions under which the contract may be terminated by either Council or the bidder.

SECTION 8

SUPPLIER PERFORMANCE

8.1 All staff participating in a procurement process shall document evidence where the performance of a supplier has been unsatisfactory. The Clerk shall maintain such documentation on file for the respective vendors.

8.2 The Clerk shall provide the bidder with the written results of the performance evaluation and the bidder shall have 20 days following delivery of the evaluation to take corrective action, if possible, or to request an appeal.

8.3 If an appeal is filed, Council shall hear from both parties at a time and place appointed in writing by the Clerk. The decision of Council shall be in writing, a copy of which shall be provided to the contractor, supplier or consultant, and the decision of a majority of Council present and voting shall be final.

SECTION 9

CONTRACT RENEWAL OPTIONS

9.1 Where a contract contains an option for renewal, Council may exercise such option provided that:

- the supplier's performance in supplying the goods, services or construction is considered to have met the requirements of the contract, and
- Council agrees that the exercise of the option is in the best interest of the Municipality, and
- funds are available in appropriate accounts within the Municipality's approved estimates including authorized revisions to meet the proposed expenditure.

9.2 The authorization from Council shall include a written explanation as to why the renewal is in the best interest of the Municipality and include comment on the market situation and trend.

SECTION 10

EXECUTION AND CUSTODY OF DOCUMENTS

- 10.1** The Head of Council and Clerk are authorized to execute formal agreements in the name of the Municipality that have been approved by by-law.
- 10.2** The Department Head requesting the goods/services shall have the authority to execute purchases, via the Treasury Department, issued in accordance with the Procurement Policy.
- 10.3** The Clerk shall be responsible for the safeguarding of the original purchasing and contract documentation for the contracting of all goods, services or construction awards.
- 10.4** The Treasurer shall be responsible for the safeguarding of all invoice payments and financial reporting requirements associated with the procurement of goods and services.

SECTION 11

REVIEW AND EVALUATION

- 11.1** The Municipality shall review this Policy periodically. Such review shall include the evaluation of the effectiveness and efficiency of the Policy and all Appendices.

APPENDIX 'I' TO PROCUREMENT POLICY

EXPENSE REPORT

Council / Committee Claim Form

Name: _____

Today's Date: _____



Travel

Event Description: _____

Location: _____

Mileage: 0.61 X _____

Incidental Detail

Table with 3 columns: Date Incurred, Description, Amount

Please attach receipts and additional documents to this form. Simplified Method: identify a flat rate of the Canada Revenue Agency ("CRA") meal rate, currently \$23.00 per meal or \$69.00 per day, (sales tax included) per person, without receipts*.

Total: _____

I certify that this report is factual and accurate to the best of my knowledge.

Included in Current Year Budget Yes [] No [] (see Res. # below)

Resolution # _____

Signature: _____

Office Use Only G/L: _____

APPENDIX 'II' TO PROCUREMENT POLICY

**PROCUREMENT TYPE
The Corporation of the Municipality of Huron Shores**

Amount of Purchase	Procurement Type	Authority
\$0.01 to \$200.00	Petty Cash purchases	Department Head Must be allowance in Current Budget See Section '7.1'
\$0.01 to \$2,499.99	Direct Acquisition	Department Head Must be allowance in Current Budget See Section '7.2'
\$2,500.00 to \$74,999.99	Written Quotations	If included in Current Budget: Department Head and Treasurer If not included in Current Budget: Department Head and Council See Section '7.3'
\$75,000.00 and up	Tendering (Request for Tenders –RFT)	Council See Section '7.4'
No \$ Limit	Proposal (Request for Proposal-RFP)	Used when a unique proposal designed to meet a broad outcome to a complex problem or need for which there is no clear or single solution. See Section '7.5'

APPENDIX 'III' TO PROCUREMENT POLICY

**QUOTATIONS LOG – WRITTEN QUOTATIONS
For Purchase Amounts from \$2,500.00 to \$74,999.99**

The Corporation of the Municipality of Huron Shores

Item Detail (incl. quantity, etc.): _____

Quotations Obtained By: _____

Company/Name	Date Requested	Time Requested	Date Quotation Received	Price Quoted (\$)

Price Included in Current Year Budget: Yes No (see Res. # below)

Recommendation from Department Head:

===== **Authorization Detail** (signature signifies support of recommendation):

Dept. Head: _____

Treasurer: _____

Res. # (if required) _____

=====

Awarded To: _____ **Date:** _____

APPENDIX 'IV' TO PROCUREMENT POLICY

TENDER LOG
The Corporation of the Municipality of Huron Shores

Project Name	
Tender Deadline Date	
Tender Opening Date	

In Attendance: _____

Name of Bidder	Envelope No.	Date Submitted	Time Submitted	Tender Amount*

* To be completed only after tenders are opened in accordance with Tender Document.

To go to Council Meeting # : _____

Resolution # : _____

Approved Bid of: _____

In Amount of: _____

APPENDIX 'V' TO PROCUREMENT POLICY

Description of Irregularities	Major	Minor	Action to be Taken
Late bid (by any amount of time)	x		Automatic rejection
Bids completed in pencil	x		Automatic rejection
Bid surety not submitted with the bid when the bid request (or any addenda) indicated that such surety is required	x		Automatic rejection
Execution of Agreement to bond: a) bond company corporate seal or equivalent proof of authority to bind company or signature missing b) surety company not licensed to do business in Ontario	x		Automatic rejection
Execution of Bid Bonds: a) corporate seal or equivalent proof of authority to bind company or signature of the BIDDER or both missing b) corporate seal or equivalent proof of authority to bind company or signature of BONDING COMPANY missing	x		Automatic rejection
Other Bid Security: Cheque has not been certified	x		Automatic rejection
Bidders not attending mandatory site meeting	x		Automatic rejection
Unsealed tender envelopes	x		Automatic rejection
Proper response envelope or label not used		x	Acceptable if officially received on time
Pricing or signature pages missing	x		Automatic rejection
Insufficient financial security (i.e. no deposit or bid bond or insufficient deposit)	x		Automatic rejection
Bid received on documents other than those provided in request	x		Not acceptable unless specified otherwise in the request
Execution of bid document — proof of authority to bind corporation is missing	x		Automatic rejection
Part bids (all items not bid)	x or	x	Acceptable unless complete bid has been specified in the request
Bids containing minor clerical errors		x	2 Working days to correct errors and initial changes. Municipality of Huron Shores reserves the right to waive initialling and accept bid
Other mathematical errors (including errors in taxes) which are not consistent with the unit prices		x	2 Working days to correct errors and initial changes. Unit prices will prevail
Pages requiring completion of information by vendor are missing	x		Automatic rejection
Bid documents which suggest that the bidder has made a major mistake			Consultation with a solicitor on a case-by-case basis and referenced within the staff report if applicable.

NOTE: The above list of irregularities should not be considered all-inclusive. The Clerk in consultation with Council will review minor irregularities not listed. The Clerk may then accept the bid, or request that the bidder rectify the deviation.