

Procurement By-Law

CORPORATION OF THE TOWNSHIP OF HORTON

By-Law No. 2016-25

Being a by-law governing procurement policies and procedures

**WHEREAS** Section 270 (1) of the Municipal Act, S.O. 2001, c.25 imposes upon municipalities the obligation to adopt policies with respect to the procurement of Goods and Services;

**AND WHEREAS** this by-law establishes the authority and sets out the methods by which Goods, Services or Construction will be purchased and disposed of for the purposes of the Township of Horton, subject to certain exceptions set out herein;

**NOW THEREFORE** the Council of the Corporation of the Township of Horton hereby enacts as follows:

**PART 1. Short Title**

1.1 This by-law may be cited as the “Procurement By-Law”.

**PART 2. Purposes, Goals and Objectives**

2.1 The purposes, goals and objectives of this by-law and of each of the methods of procurement authorized are:

- (i) To encourage competition among suppliers,
- (ii) To maximize savings for taxpayers,
- (iii) To ensure service and product delivery, quality, efficiency and effectiveness,
- (iv) To ensure fairness among bidders,
- (v) To ensure openness, accountability and transparency while protecting the financial best interests of The Corporation,
- (vi) To have regard to the accessibility for persons with disabilities to the Goods, Services and Construction purchased by The Corporation,
- (vii) To attempt to reduce the amount of solid waste requiring disposal through the purchase of environmentally responsible Goods and Services.

**PART 3. Definitions and Schedules**

3(A) The words and phrases listed below when used in this By-law shall have the following meanings ascribed to them.

3.1 **“Award, Awarded and Awarding”** mean authorization to proceed with the purchase of Goods, Service or Construction from a chosen supplier.

3.2 **“Bid”** shall mean a specific price for specific works.

3.3 **“Bidder”** shall mean a contractor/supplier who has submitted a tender bid.

3.4 **“Day Labour”** shall mean a project where the Corporation acts as General Contractor and receives request for quotes, usually in units of “per hour” or “per tonne”, from a minimum of two companies qualified to supply individual components of the project.

3.5 **“Corporation, The”** means The Corporation of the Township of Horton.

3.6 **“Department”** shall mean each department and their divisions of The Corporation.

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- 3.7 **“Emergency”** shall mean a situation where serious delay may affect the life and health of the general public, prevention of serious damage, and the restoring of essential service levels to a minimum level.
- 3.8 **“Expanded Works”** shall mean approved construction projects in which an unexpected problem arises during construction, which does not expand the scope of the project but is necessary in order to deliver the original approved work. Any expanded works that are above twenty-five percent (25%) of the original project costs must receive Council approval.
- 3.9 **“Expression of Interest”** shall mean a call by The Corporation to suppliers to express interest for the provision of alternate options, which cannot be fully defined or specified at the time of the request, and shall include development proposals.
- 3.10 **“Forms”** shall mean the standard documents as provided as part of the purchasing guidelines for purchasing and contract administration purposes.
- 3.11 **“Goods and Services”** means all supplies, materials or equipment and related procurement services. This may include installation, training, inspection, maintenance and repairs and related procurement services, but does not include land purchases, sales and property leases.
- 3.12 **“Invitational Tender”** shall mean a formal request for details on the supply of goods and services, greater than \$5,000 and less than \$20,000. Two or more written tenders must be obtained and opened in public.
- 3.13 **“Public Tender”** shall mean a publicly advertised solicitation of bids opened in public. A public tender must be called for goods and services at a value of \$20,000 or greater and may be used for values less than \$20,000 when deemed appropriate by the pertinent authority.
- 3.14 **“Pertinent Authority”** shall mean the Department Head, CAO/Clerk or their designate.
- 3.15 **“Request for Quotation”** shall mean a request for prices on specific goods and services less than \$5,000 at the discretion of the pertinent authority, Committee Chairperson or Reeve.
- 3.16 **“Single Source”** shall mean that there may be more than one source in the open market but for reasons of function or service only one vendor is recommended for consideration of the particular goods and services.
- 3.17 **“Sole Source”** shall mean there is only one known source or supply of particular goods and services.
- 3.18 **“Time-Sensitive Works”** shall mean works for which the timing to initiate and/or complete the works is paramount, but the time available to follow normal procedures is insufficient.
- 3(B) Schedules A, B & C attached hereto form part of this By-law.

### **PART 4. Policy Statement**

- 4.1 All purchase of goods and services for The Corporation shall be subject to the provisions of this by-law. Prices and authority levels as stated in this by-law are intended to be before tax amounts.

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- 4.2 In the event a department chooses to engage a consultant to coordinate the procurement of goods and services, then it shall be the responsibility of the pertinent authority to ensure that all conditions of the by-law are adhered to.
- 4.3 All bidders who will be performing work on municipal property must provide evidence of liability insurance in the amount of \$1,000,000 and active Workplace Safety and Insurance Board status to be eligible for specified works.
  - (i) Notwithstanding clause 4.3 above, for all Road construction projects, tender documents shall include a clause which requires all bidders to supply evidence of liability insurance in the amount of \$5,000,000.
- 4.4 Formal approval of the annual budget constitutes financial approval to proceed with the purchases subject to any scheduling or priority consideration as may be deemed necessary by Council and as outlined by the purchasing policies.
- 4.5 Prior to the passing of the annual operating budget each department shall be allowed an interim appropriation of fifty percent (50%) of the previous year's approved operating budget, and such interim appropriation shall be deemed to be for routine operating and recurring expenditures or statutory purposes unless otherwise directed by Council.
- 4.6 Subject to any direction that may be given, the pertinent authority shall decide the method of source selection which shall be employed to obtain the most favourable price, having regard to the nature or importance of the contemplated work, the urgency of the requirement, and general trade practice and market conditions.
- 4.7 The pertinent authority is authorized to place orders on behalf of departments for goods and services from such suppliers and upon such terms and conditions as deemed appropriate. In the awarding of a contract, the pertinent authority shall not be bound to accept the lowest bid and may award to another bidder if, in his/her discretion, having regard for delivery time, service and quality of goods, that it would be in the best interest of The Corporation.
- 4.8 When identical low bids are received, the pertinent authority shall determine the low bidder on the basis of a coin toss, conducted in the presence of the tied bidders.
- 4.9 The Council of The Corporation provide for moneys up to the amount of \$5,000 for emergency expenditures relating to a situation that constitutes a danger of major proportions to life or property, and based upon implementation of The Corporation's Emergency Plan and associated with an official declaration of an emergency by The Corporation.

### **PART 5. Purchasing Procedures**

- 5.1 In the cases of urgency the pertinent authority is delegated the authority to approve tenders and award contracts when all of the following conditions have been satisfied:
  - (i) When there is a sufficient approved budget,
  - (i) When all procedures for the establishment of prices of this by-law have been followed,
  - (ii) When the lowest tender is accepted,
  - (iii) When at least two (2) tenders have been received.
- 5.2 The invitation tender process may be followed when the following conditions have been satisfied:
  - (i) Where the goods and services are estimated to cost more than \$5,000 and less than \$20,000,

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- (ii) When at least two (2) tenders have been received,
- (iii) The provisions of Part 4.7 of this by-law shall apply.

5.3 The request for quotation process may be followed when the following conditions have been satisfied:

- (i) Where the goods and services are estimated to cost less than \$5,000,
- (ii) When at least two (2) tenders have been received,
- (iii) The provisions of Part 4.7 of this by-law shall apply.

5.4 The Public Tender process must be followed when the following conditions have been satisfied:

- (i) Where the goods and services are estimated to cost more than \$20,000;
- (ii) When there are two or more companies which can supply the goods or services;
- (iii) When at least two (2) tenders have been received, and
- (iv) The provisions of Part 4.7 of this By-law shall apply.

### 5.5 COOPERATIVE PURCHASING

- (i) The Corporation may participate with other government agencies or public authorities in cooperative purchasing where it is in the best interest of the Corporation to do so and where the purposes, goals and objectives of this By-law are complied with by such government agencies and public authorities;
- (ii) The policies of the government agencies or public authorities calling the cooperative bid are to be the accepted policy for that particular purchase.

5.6 For single source or sole source, the provisions of Part 4.7 of this by-law shall apply.

5.7 Further to clause 5.4 above, a Competition Quotation process is an alternative that Council may consider when the following conditions have been satisfied:

- (i) When goods and services are estimated to cost more than \$5,000;
- (ii) When there are two or more companies that can supply the goods and services;
- (iii) When at least two written detailed quotations have been received;
- (iv) When Council believes there will be an advantage to the municipality either with cost savings or through expedited delivery of goods or services;
- (v) When Council declares by resolution that a Competition Quotation is their preferred method of tender for the purchase of certain goods and services;
- (vi) The provisions of Part 4.7 above shall apply.

5.8 The Day Labour process may be followed when the following conditions have been satisfied:

- (i) A construction process where the Corporation's Managers are qualified to act, or a qualified person is hired to act as the general contractor for the project;
- (ii) When at least two (2) quotes for the various components of the project have been received;

- (iii) When Council believes there will be an advantage to the Corporation through cost savings;
- (iv) When Council declares by resolution that Day Labour is their preferred method of purchasing goods and services.
- (v) The provisions of Part 4.7 above shall apply.

## **PART 6. Tender Bid**

6.1 **Tender Bid Process** - The following bidding procedures shall apply to the purchase of good and services, by public tender:

- (i) For all tenders, the pertinent authority shall ensure and confirm completeness of documentation, advertisement arrangements, closing dates and tender opening scheduled and vendor contacts for information.

6.2 **Establishment of File** - A file shall be created and maintained for all tenders and include the following:

- (i) The tender name and number,
- (ii) A copy of the "Tenders Received" list,
- (iii) A photocopy of the bid security deposit,
- (iv) A copy of the liability insurance documentation and WSIB status,
- (v) A copy of the newspaper ad and invoice,
- (vi) A copy of the tender documents including any plans and specifications,
- (vii) Attendance, an analysis of the bids opened and a copy of the committee's recommendation to Council,
- (viii) A copy of the letter notifying all bidders of the award and any other correspondence to the bidders,
- (ix) A true copy of the motion to award the tender.

6.3 **Advertising** - Public tenders shall be publicly advertised in the Renfrew newspaper for a minimum of two consecutive weeks.

6.4 **Release of Information to Bidders** – Upon the request of a prospective bidder, the buyer or designate shall supply the following material for each contract:

- (i) A copy of the official Tender Bid form,
- (ii) Return envelope identification label,
- (iii) Submission material, e.g. specifications, plans, profiles, etc.

6.5 **Changes to Tenders Under Call**

(i) **Preparation of Addenda**

- 1) Interpretations should be made in reply to queries from bidders only, in the form a written addendum.
- 2) When it becomes necessary to revise, delete, substitute or add to specifications for a tender call, the pertinent authority shall coordinate the issuance of an addendum or cancel the tender call.

(ii) **Notification of Addenda to Bidders**

- 1) A copy of each addendum shall be forwarded to each bidder who obtained bid forms for the contract,

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- 2) A copy of the addendum notice shall also be stapled to each bid form not yet distributed,
  - 3) In the case of bidders who have already submitted a tender bid, they will be informed and given a chance to adjust their tender where time permits.
- (iii) **Notification to Bidders of Cancellation of Tender Call**  
Each prospective bidder, who received bid documents, shall be notified, by the pertinent authority, of the cancellation of the tender call.
- (iv) **Return of Tender Bids**  
When a tender call is cancelled, no bids will be accepted. Any tender bids inadvertently received shall be returned, unopened, to the bidder by hand or by registered mail, with a covering letter.
- (v) **Extension of Time**  
Each bidder who received documents shall be notified of the extension of time.
- (vi) **Disposition of Tender Bids**  
When the closing date has been extended, bids already received shall be handled as follows:
- 1) If the extension of time is four (4) weeks or less, the bidder shall be advised that the bid will be returned upon request.
  - 2) If the extension of time is more than four (4) weeks, all bids shall be returned unopened. For this, all communications shall be by registered mail.

### 6.6 Tender Bid Requirements

- (i) All tender bids shall be mailed or delivered to The Corporation.
- (ii) The correct tender bid form, as supplied by The Corporation must be used and in the possession of the pertinent authority on or before the closing date and time.
- (iii) The tender bid must be legible, written in ink or typed, with the unit price for each item and other entries clearly shown, unless the bid form specifically permits otherwise.
- (iv) The tender bid must not be restricted by a statement added to the tender bid form or a covering letter, or must not have alterations to the tender bid forms, unless requested by The Corporation.
- (v) Adjustments, by telephone, facsimile or letter, for a bid already received, will not be considered. A bidder desiring to make adjustments to a bid must withdraw the tender bid and/or supersede it with a later bid offer.
- (vi) The tender bid must be signed and initialled in the space(s) provided on the form, with the signature of the bidder, or of an official of the company bidding. In the case of an incorporated company, the corporate seal must be affixed on the bid form.
- (vii) Erasures, overwriting or strike-outs must be initialled by the person signing on behalf of the bidder.
- (viii) At the discretion of Council, tender bids must be accompanied by a certified cheque, bank draft, money order and/or bid bond made payable in the amount up to a maximum of ten percent (10%) of the total bid price to The Corporation.

### 6.7 Receiving Tender Bids

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- (i) When a tender bid is received, the envelope shall be time and date stamped.
- (ii) If a time stamp is not available, the time received shall be noted in ink and initialled by the pertinent authority.
- (iii) Receipt of each bid shall be recorded.
- (iv) Submissions shall be deposited unopened in the appropriate place.

### 6.8 Late Tenders

- (i) Regardless of the time a tender bid is received, the envelope shall be time and date stamped.
- (ii) If the tender bid is for a contract already closed, it shall be returned unopened to the bidder. If a tender bid is to be returned by mail, it shall be accompanied by a covering letter.
- (iii) If a late tender bid is received without a return address on the envelope, it shall be opened, the address obtained and then returned. The covering letter should state why the envelope could not be returned unopened.

### 6.9 Withdrawal of Tender Bids

- (i) A bidder may request that the tender bid be withdrawn prior to the opening of the contract to which it applies.
- (ii) Withdrawal requests must be directed to the pertinent authority by letter, facsimile or in person. Telephone requests shall not be considered.
- (iii) Withdrawal requests received after the opening of the tenders will not be allowed.

### 6.10 Opening of Tenders Procedure

- (i) All tenders received shall be opened in public.
- (ii) The pertinent authority shall announce the number of bids received for each tender, the name of the bidder and the total bid amount.
- (iii) The name of each bidder and the bid amount shall be recorded on the summary of bidders' sheet.
- (iv) The tenders shall be checked to determine that all requirements of this by-law have been met. If the requirements have not been met, the tender bid shall be rejected.

### 6.11 Award Procedure

- (i) The awarding of public tenders must be approved by Council.
- (ii) Upon the award of the tender bid, the pertinent authority shall inform the successful bidder that the bid has been accepted.
- (iii) The pertinent authority shall inform all other bidders of the award and the name of the successful bidder.

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- (iv) Following the award of the tender bid, all deposit cheques and/or bid bonds, other than the successful bids, shall be returned to the applicable bidders by regular mail.

### 6.12 Right to Accept or Reject Tenders

- (i) The Corporation reserves the right to accept or reject any tender, including the lowest tender. In the case of there being only one valid tender, The Corporation may accept or reject that tender.

### 6.13 Contract Completion

- (i) Upon the satisfactory completion of the contract, the pertinent authority shall return the deposit cheque or bid bond.
- (ii) Upon the satisfactory completion of the contract and authorization of the pertinent authority, payment shall be made for the goods and services.

### 6.14 Bid Irregularities

The process for administering irregularities contained in Bids pertaining to all Contracts shall be set out in Schedule "C". For an irregularity listed in the first column of Schedule "C", the applicable response is set out opposite in the irregularity in the second column of Schedule "C".

## PART 7. Severability

- 7.1 Should any section, subsection, clause or provisions of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof, other than the part so declared to be invalid.

## PART 8. Repeal

- 8.1 By-laws 2005-08, 2009-29 and 2010-11 shall be rescinded in their entirety.

## PART 9. Effective Date

- 9.1 This By-law shall come into force and take effect on the 05<sup>th</sup> day of April, 2016.

Read a first and second time this 05<sup>th</sup> day of April, 2016.

Read a third time and passed this 05<sup>th</sup> day of April, 2016.

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MAYOR

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CAO/Clerk

**SCHEDULE "A"**

To By-law 2016- of the Township of Horton

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

1. Training and Education
  - (1) Registration and Tuition fees for conferences, conventions, courses and seminars
  - (2) Magazines, books and periodicals unless the purchase of such magazines, books and periodicals are subject to value-added services
  - (3) Memberships
2. Refundable Employee/Councillor Expenses
  - (1) Advances
  - (2) Meal allowances
  - (3) Travel and Entertainment
  - (4) Miscellaneous – Non-Travel
3. Employer's General Expenses
  - (1) Payroll Deductions Remittances
  - (2) Medical
  - (3) Licenses (vehicles etc.)
  - (4) Debenture payments
  - (5) Grants to Agencies
  - (6) Damage Claims
  - (7) Petty Cash Replenishment
  - (8) Tax remittances
4. Professional and Special Services
  - (1) Committee Fees
  - (2) Legal fees and other Professional Services related to litigation or legal matters
  - (3) Witness fees
  - (4) Contracts related to the provision of "controlled acts" by persons "governed by a health profession Act", as those expressions are used in the *Regulated Health Professions Act*, S. O. 1991, c.18, as amended
  - (5) Veterinary expenses
5. Utilities
6. Advertising services required by the Township on or in but not limited to radio, television, newspaper and magazines
7. Bailiff or collection agencies.

**SCHEDULE "B"**

**to By-law 2016- of the Township of Horton**

**PURCHASING METHODS**

<b>Procedure</b>	<b>Cost of Goods or Service</b>
Request for Quotation	\$0 to \$5,000 (Section 5.3)
Invitation Tender, or Public Tender	\$5,000 to \$20,000 (Section 5.2)
Public Tender	\$20,000 or more (Section 5.4)
Cooperative Purchasing	When in the best interest of the Corporation and when the purposes, goals and objectives of this by-law are complied.(Section 5.5)
Single source or sole source	When there is only 1 known source or supply of a particular good or service(Section 5.6)
Competition Quotation	Detailed quotations for goods and services valued at over \$5,000 (Section 5.7)
Day Labour	Corporation qualified to act as general contractor and when 2 quotes are received for the components of the project. (Section 5.8)

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**SCHEDULE "C"**

**to By-law 2016- of the Township of Horton**

	IRREGULARITY	RESPONSE
1	Late Bids.	Automatic rejection and not opened or read publicly
2	Unsealed Envelopes	Automatic rejection.
3	Insufficient Financial Security (No Bid Security or agreement to bond or insufficient Bid bond or agreement to bond).	Automatic rejection.
4	Bids completed and/or signed in erasable medium	Automatic rejection.
5	All required sections of Bid documents not completed.	Automatic rejection unless in the consensual opinion of the Pertinent Authority and the Solicitor, the incomplete nature is trivial or insignificant.
6	Qualified Bids (Bids qualified or restricted by an attached statement).	Automatic rejection unless in the consensual opinion of the Pertinent Authority and the Solicitor, the qualification or restriction is trivial or not significant.
7	Bids received on documents other than those provided or specified by the Township	Automatic rejection.
8	Bids Containing Minor Obvious Clerical Errors.	48 hours to correct and initial errors.
9	Failure to execute Agreement to Bond (Sureties Consent) or Bonding company corporate seal or signature missing from Agreement to Bond.	Automatic rejection.
10	Failure to execute Bid Bond by Bidder and Bonding Company	Automatic rejection.
(a)	Corporate seal of the Bidder and Bonding Company, missing	48 hours to correct.
11	Documents - Execution	
(a)	Corporate seal or signature missing; signatory's authority to bind the corporation or signature missing	48 hours to rectify situation.
(b)	Corporate seal and signature missing; signatory's authority to bind the corporation and signature missing.	Automatic rejection

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12	Erasures, Overwriting or Strike-outs which are not initialled	
(a)	Uninitialled changes to the Tender documents, other than unit prices, which are trivial or not significant;	48 hours to initial. The determination of what constitutes trivial or insignificant uninitialled changes shall be made in the consensual opinion of the Pertinent Authority and the Solicitor.
(b)	Unit prices in the Schedule of Prices have been changed but not initialled and the Contract totals are inconsistent with the price as changed;	48 hours to initial change in unit price. The determination of what constitutes trivial or insignificant uninitialled changes shall be made in the consensual opinion of the Pertinent Authority and the Solicitor.
(c)	Unit prices in the Schedule of Prices which have been changed but not initialled and the Contract totals are inconsistent with the price changed;	Automatic rejection.
13.	Mathematical errors which are not consistent with unit prices.	48 hours to initial corrections.
14.	Documents, in which all necessary Addenda, which have financial implication, have not been acknowledged.	Automatic rejection.
15.	Any other irregularities.	The Pertinent Authority and the Solicitor, acting in consensus shall have authority to waive other irregularities or grant 48 hours to initial such other irregularities, which they jointly consider to be minor.