

Town of Truro – Policy & Procedure Manual

Subject: Purchasing Policy
Policy Number: P-100-018
Approval Date: October 4, 2012
Departments: All Departments

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Title

1. This Policy is entitled the "Purchasing Policy".P-100-018

Purpose and goal

2. The goal of the Town’s purchasing process is to obtain appropriate goods and services for the Town in a manner that is fair and transparent, provides best value, is timely, promotes sustainability, and abides by all applicable laws.

PART I - INTRODUCTORY

Interpretation

3. In this Policy:
 - (1) “alternative procurement practice” means the purchase of goods or services without a public tender or other competitive process, usually due to an emergency or through sole sourcing, in the circumstances described at s. 14 of this Policy;
 - (2) “best value” means evaluating purchase options not only on purchase price and life cycle cost considerations, but also taking into account items such as sustainability factors, delivery, servicing and the capacity of the supplier to meet other criteria as stated in tender documents;
 - (3) “Council” means the Council of the Town;
 - (4) “life cycle cost” means the total costs associated with a product or asset over its life span, including the cost of maintenance, repair, operation and disposal;
 - (5) “local business” means a person or organization that carries on a significant portion of its business in the Town of Truro;

- (6) “public tender” means publicly advertising the Town’s intended procurement of certain goods or services and inviting responses from interested suppliers. Public tenders include traditional tenders and requests for proposals, and are described at Schedule “A” of this Policy;
- (7) "request for proposals" or “RFP” means a formal invitation to suppliers to describe how their services, methods, equipment or products can address and/or meet the needs of the Town. Requests for proposals are described at Schedule “A” of this Policy;
- (8) "request for quotations" means obtaining price quotations from a number of different suppliers. Requests for quotations are described at Schedule “A” of this Policy. There are two types of requests for quotations for the purposes of this Policy, as follows:
 - (a) “informal request for quotations” means obtaining verbal price quotations from a number of different suppliers;
 - (b) “formal request for quotations” means obtaining formal, written price quotations from a number of different suppliers;
- (9) “standing offer” means a source of supply available to the Town either through a standing price agreement with a supplier or as a member of a larger group of purchasers. Standing offers are described at Schedule “A” of this Policy;
- (10) “sustainability factors” means environmental and social considerations, including those described in Schedule “B” to this Policy;
- (11) “Town” means the Town of Truro;
- (12) “traditional tender” means a formal invitation to suppliers to submit a bid to supply specified goods or services. Traditional tenders are described at Schedule “A” of this Policy.
- (13) “request for qualification” is an invitation to suppliers of goods, service and construction and shall be used for the purpose of selecting qualified bidders if the nature of the work or service to be performed requires ascertainable minimum standards.
- (14) “request for expression of interest” shall be used to determine the interest in the marketplace in providing goods, services, construction or facilities contemplated to be procured by the Town.

Application of this Policy

4. This Policy applies to the procurement by the Town of all goods and services, including construction and facilities, by purchase or lease.

Purchase Policy principles

5. All purchases carried out by the Town must be carried out with a view to:
 - (1) ensuring an equitable, open and transparent process for the acquisition of goods and services by the Town;
 - (2) avoiding dishonesty, corruption or favouritism in the purchase of goods and services;
 - (3) encouraging competitive bidding wherever possible and, in any event, minimizing the Town's cost of acquiring goods and services while obtaining best value;
 - (4) utilizing suppliers who can be expected to provide satisfactory performance;
 - (5) taking into account environmental considerations in all procurement decisions and selecting environmentally beneficial goods and services where practical;
 - (6) complying with applicable regional, national, and international trade agreements, including the Agreement on Internal Trade and the Atlantic Procurement Agreement;
 - (7) complying with the *Public Procurement Act*, and Regulations made pursuant to the *Public Procurement Act*.
6. Pursuant to s. 15(1) of the *Public Procurement Act*, all employees involved in procurement on behalf of the Town must:
 - (1) ensure their procurement activities are conducted according to this Policy, provincial and federal legislation, trade agreements and ethical business practices;
 - (2) encourage and support collaborative procurement amongst other municipalities and public sector entities such as hospitals and school boards;
 - (3) follow leading procurement practices;
 - (4) in good faith, conduct business with current and prospective suppliers and be fair in all business dealings;
 - (5) strive to obtain the best value for each expenditure;
 - (6) require suppliers provide accurate representations of goods, services and construction;

- (7) encourage suppliers to consider integrating environmental, economic and social considerations in their product or service offerings;
- (8) encourage the negotiation of an equitable and mutually acceptable settlement when a dispute arises;
- (9) request removal from a procurement process when a personal conflict of interest is perceived.

PART II – NORMAL PROCUREMENT PRACTICES

7. In addition to adhering to the principles in sections 5 and 6, normal purchasing practices must be as described below in sections 8 to 11.
8. For goods and services having a value of less than \$2,000:
 - (1) The purchase decision may be made by those Town staff who have been designated by the CAO to have purchasing authority.
 - (2) Goods and services must be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value.
 - (3) If the goods or services cannot be procured under subsection (2), it is recommended that the goods or services be procured by an informal request for quotations from more than one supplier.
9. For goods and services having a value between \$2,000 and \$10,000:
 - (1) The purchase decision must be made by the Department Head of the department for which the purchase is required, in consultation with the Purchasing Officer.
 - (2) Goods and services must be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value.
 - (3) If the goods or services cannot be procured under subsection (2), the goods or services must be procured by a formal request for quotations. In addition to any other requirements for the formal request for quotations process, the following requirements must be met:
 - (a) all quotations must be obtained in writing (via hand delivery, regular mail, fax or email is acceptable);

10. For goods and services having a value of more than \$10,000

- (1) Goods and services must be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value. The decision of whether to purchase through a standing offer must be made by the Department Head of the department for which the purchase is required, in consultation with the Purchasing Officer.
- (2) If goods or services are not procured under subsection (1), the goods and services must be purchased by public tender (traditional tender or RFP), which may be preceded by a request for qualifications or request for expressions of interest.
- (3) For all RFPs and traditional tenders, the Purchasing Officer and the responsible Department Head must determine whether there will be an evaluation committee, and if so, the composition of it.
- (4) The role of the evaluation committee is the following:
 - (a) evaluate the bids or proposals in accordance with the evaluation criteria;
 - (b) review the bids or proposals for compliance with this Policy and with the terms of the tender or RFP;
 - (c) rank the bids or proposals and/or develop a short-list;
 - (d) in the case of an RFP, interview suppliers if the evaluation committee feels it would be beneficial to do so;
 - (e) decide on the successful supplier, or make a recommendation to Council where required.
- (5) The purchase decision for each traditional tender or RFP must be made as follows:
 - (a) Council shall make the purchase decision if:
 - (i) there is not a budget for the purchase, or if the bid providing best value exceeds the budget; or
 - (ii) Council decides that, because of the significance or cost of the purchase or project, Council should make the purchase decision;
 - (b) if Council does not make the purchase decision, the decision must be made by the Department Head in consultation with the Purchasing Officer, or by the evaluation committee if one has been established to evaluate the bids.

Other means of public procurement

11. The Town may use another method of purchasing goods and services having a value of over \$10,000, in addition to or in substitution for a standing offer, traditional tender or RFP, such as a request for expressions of interest or a pre-qualification process, if all of the following criteria are met:
- (1) the method involves publicly advertising the Town's intended purchase of certain goods and services, and invites responses from interested suppliers;
 - (2) the method meets the requirements for traditional tenders and RFPs in this Policy to the extent possible;
 - (3) the method meets the principles described in s. 5 of this Policy;
 - (4) the CAO approves the method.

PART III – PUBLIC TENDERS – TRADITIONAL TENDERS AND REQUESTS FOR PROPOSALS

Requirements for all traditional tenders and RFPs

12. The following requirements apply to all traditional tenders and RFPs:
- (1) The Town must provide reasonable notice and opportunity to respond to traditional tenders and RFPs, and must post or place notices of traditional tenders and RFPs as follows:
 - (a) on the public website maintained and operated by the government of Nova Scotia;
 - (b) in the Truro Daily News, when the Purchasing Officer determines that the benefit of doing so justifies the increased cost;
 - (c) in other local, provincial, or national media, when the CAO determines that the benefit of doing so justifies the increased cost.
 - (2) The Town may also directly notify specific suppliers of a traditional tender or RFP and invite those suppliers to respond, if the Town believes that doing so is likely to improve the quality or quantity of bids or proposals.
 - (3) Every traditional tender and RFP must include or have attached the terms and conditions that govern the tender.
 - (4) The terms and conditions of every notice of traditional tender and RFP must be consistent with:

- (a) the standard instructions that support public tenders issued by the four Atlantic provinces for goods and services, known as the Atlantic Standard Terms and Conditions, for the purchase of goods and services;
 - (b) the standard instructions that support construction tenders issued by the government of Nova Scotia, known as the Construction Contract Guidelines, for the purchase of construction.
- (5) Traditional tenders and RFPs should normally include specifications or terms as follows:
- (a) a privilege clause stating that the lowest or any bid or proposal will not necessarily be accepted, and that the Town reserves the right to accept or reject any or all bids or proposals;
 - (b) suppliers must deliver bids or proposals to the Purchasing Department by way of courier or mail in a sealed envelope;
 - (c) all questions or requests for clarification from suppliers must be directed to the Purchasing Department;
 - (d) the time and date of closing;
 - (e) a warning that tender documents and bids will be open to the public, except to the extent otherwise stated in a call for tenders or a RFP, in which event there must be a warning that proposals or bids are subject to the Freedom of Information and Protection of Privacy provisions of the *Municipal Government Act*.
- (6) Traditional tenders and RFPs may also include a form of contract that the successful supplier will be required to enter into with the Town.
- (7) If the Town receives a question or request for clarification regarding a tender or RFP:
- (a) if there is an evaluation committee for the tender or RFP, the Purchasing Officer and the evaluation committee must decide upon what response, if any, will be provided;
 - (b) if there is not an evaluation committee for the tender or RFP, the Purchasing Officer and the responsible Department Head must decide upon what response, if any, will be provided;
 - (c) the Purchasing Officer will post the response on the tender listing on the provincial website.
- (8) For each traditional tender and RFP that is awarded, the Town must post the name of the successful supplier and the contract amount on the public website maintained and operated by the government of Nova Scotia website.

- (9) The terms and conditions of every traditional tender and RFP must state the criteria that the Town will use in evaluating responses. Those criteria are not limited to purchase price and life cycle cost considerations, but may also include items such as sustainability factors, delivery, servicing, the capacity of the supplier, and the supplier's experience and ability.

Supplier debriefing

13. Upon the request of a supplier who is an unsuccessful bidder in a traditional tender or RFP, the Town must conduct a debriefing with that supplier to provide feedback on the evaluation of the traditional tender or RFP. The debriefing must be conducted as follows:
- (1) the Purchasing Officer and either the CAO or responsible Department Head must conduct the debriefing;
 - (2) the debriefing must provide reasons for the disqualification of the supplier, or in the case where evaluation scoring was used, provide an overview of the supplier's score in each category and reasons for that score;
 - (3) the debriefing must also provide information to the supplier on how to improve future submissions;
 - (4) the debriefing must not disclose any information regarding other bidders or their submissions.

PART IV – ALTERNATE PROCUREMENT – EMERGENCY AND SOLE SOURCE PURCHASES

14. In certain circumstances, described in this section, the Town may purchase goods or services without using one of the options set out above. An alternative procurement purchase may occur only:
- (1) In an emergency, where an unforeseeable situation of urgency exists and the goods, services or construction cannot be obtained in time by means of the regular purchase procedures.
 - (a) Emergencies include a lack of supplies or services that will have a significant adverse affect on the functioning of the Town, threaten public or private property or the environment, or jeopardize the health or safety of the public.
 - (b) Emergency purchases will be completed using the most expedient method in the circumstances but will take best value into consideration.
 - (c) If the emergency purchase exceeds \$2000 the purchasing employee will report the emergency purchase to their Department Head who will provide the Purchasing Officer with documentation of the purchase.

- (2) Where goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentiality, cause economic disruption or otherwise be contrary to the public interest;
- (3) Where compliance with the open tendering provisions set out in this Policy would interfere with the Town's ability to maintain security or order or to protect human, animal or plant life or health;
- (4) In the absence of tenders in response to an open or selective tender, or when the tenders submitted have been collusive, or not in conformity with the essential requirements in the tender;
- (5) To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licenses, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative;
- (6) Where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists;
- (7) For the purchase of goods or services the supply of which is controlled by a supplier that is a statutory monopoly;
- (8) For the purchase of goods on a commodity market;
- (9) For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor;
- (10) For work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
- (11) For the purchase of a prototype or a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases;
- (12) Where authorized by the CAO, for the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, at auction or through tender, but not for routine purchases;
- (13) For the purchase of original works of art;
- (14) For the purchase of subscriptions to newspapers, magazines or other periodicals;
- (15) For the purchase of real property;

- (16) For the purchase of goods intended for resale to the public;
 - (17) For a purchase from philanthropic institutions, prison labour, persons with disabilities, sheltered workshop programs or through employment equity programs;
 - (18) For a purchase from a public body or a non-profit organization; or
 - (19) For the purchase of services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation.
15. Except for an emergency purchase under s. 14(1), alternative procurement purchases must be made in accordance with the following process:
- (1) The responsible Department Head or their designate must submit their request for an alternative procurement purchase in writing to the Purchasing Officer, explaining why they believe an alternative procurement purchase is necessary.
 - (2) The Purchasing Officer must discuss the request with the Department Head to ensure an alternative procurement purchase is required.
 - (3) If the Purchasing Officer is satisfied an alternative procurement purchase is necessary, the request and explanation is sent to the CAO for approval.
 - (4) The CAO will assess the request. If the request is approved, the CAO will notify the Purchasing Officer, and if the request is denied, the CAO will notify the Purchasing Officer with an adequate reasoning as to why the request has been denied.
 - (5) The purchase should be completed through negotiation with the available supplier or suppliers of the goods or services required.
16. When an alternative procurement purchase occurs, the reason for doing so must be documented.

PART V – LOCAL PREFERENCE AND SUSTAINABILITY CONSIDERATIONS

Local preference

17. The Town must give preference to purchasing goods and services from local businesses in accordance with the following:
- (1) In evaluating which goods or services offer best value to the Town, the Town may apply a preference of 5% to the price offered by a local business as compared with non-local businesses, such that the price offered by the local business is adjusted lower by 5% for the purposes of evaluating which goods or services offer best value.
 - (2) The decision as to whether to apply a local preference to a particular purchase lies with the Purchasing Officer, in consultation with the responsible Department Head, for purchases of less the threshold outlined in the Atlantic Procurement Agreement.
 - (3) If a local preference is being applied to a purchase, the request for quotations, or notice of tender or RFP, must state that local preference applies to the purchase.
 - (4) In accordance with the Atlantic Procurement Agreement, a local preference may not be applied to the following purchases:
 - (a) Goods that have a value of \$25,000 or greater;
 - (b) Services that have a value of \$50,000 or greater;
 - (c) Construction that has a value of \$100,000 or greater.

Sustainability considerations

18. Pursuant to the *Public Procurement Act*, in evaluating which goods or services offer best value to the Town, the Town may consider sustainability factors.
19. All requests for quotations, notices of tender and RFPs must list the sustainability factors that apply to the purchase, and may include some or all of the sustainability factors contained in Schedule “B” of this Policy.

PART VI - GENERAL

Conflicts of interest

20. If an employee otherwise authorized to make a purchase or award a contract has a conflict of interest (that is, he or she stands to gain or lose financially from a contract award), the award must be made by the person to whom the conflicted staff member normally reports and the conflicted staff member must not participate in the purchase process related to the contract in any manner. If Council is making the purchase decision, the *Conflict of Interest Act* applies to Councillors.

Duration of contracts

21. Contracts for goods and services that are required to be procured by public tender under this Policy, including price agreements, must be re-tendered at least once every [**five**] years but may be re-tendered more frequently at the direction of Council.

Estimating the value of goods and services

22. In determining the cost of the goods or services for the purpose of deciding which of sections 8, 9 or 10 apply to a purchase, staff must reasonably estimate the cost of the goods or services.

Posting on Town website

23. A copy of this Policy must be posted on the Town's website.

Compliance with Policy

24. All staff and Councillors must act in good faith to comply with this Policy, but failure to comply with this Policy does not invalidate any purchase decision or act of the Town, nor is the Town liable to any supplier or prospective supplier for failing to comply with this Policy.

25. Vendor Performance

- (1) Vendors may be subject to disqualification if there is sufficient evidence of consistent failure to meet standards specified by the Town of Truro. The Procurement Department shall maintain vendor performance files. Information in this file is supplied by the requisitioner, receivers, and the procurement officer. Vendors may be evaluated based on competitive price, quality of a product, contract adherence and performance, after sales service and replies to call for bids. Upon reasonable notice in writing to the vendor involved, and after a reasonable opportunity for response, a vendor can be disqualified for a period not exceeding three years from participation in a solicitation for goods, services, construction or facilities.

(2) Vendors shall be disqualified when:

- (a) Conviction for a criminal offense of a person or a director or official or such person relating to obtaining or attempting to obtain a contract or subcontract or an indication of lack of business integrity or honesty which directly and seriously effects the responsibility of the contractor.
- (b) Serious breach of contract indicating an unwillingness to perform a contract in accordance with the terms and conditions or specifications or a record of unsatisfactory performance of one or more contracts in accordance with the terms and conditions thereof or in accordance with its specifications or both. This would also include feedback from past projects completed outside of the Town of Truro.
- (c) The offer of any gratuity to an official or employee of the Municipality by a vendor or contractor for consideration.

(3) A written decision shall be issued to the person disqualified or suspended setting out its reasons for disqualification or suspension, to the usual business address of that person as shown in the records of the purchasing section.

(4) Disqualification shall be approved by the C.A.O.

Replaces existing Purchasing Policy

28. This Policy repeals and replaces the Town's Purchasing Policy, Policy number P1040000.

SCHEDULE “A” – PURCHASE METHODS

A. Standing offers: May be used for purchases of any value. See sections 8(2), 9(2) and 10(1) of Policy.

A standing offer is a source of supply available to the Town either through a standing price agreement with a supplier or as a member of a larger group of purchasers. Standing offers include:

- i. a standing agreement between the Town and a supplier in which the supplier commits to providing specified goods or services at a specific price for a specific period of time;
- ii. equipment leasing programs through the Government of Nova Scotia;
- iii. Nova Scotia Provincial "standing offers" administered by the Nova Scotia Government;
- iv. supplies and services available from the Nova Scotia Government;
- v. a procurement program administered by the Union of Nova Scotia Municipalities or the Association of Municipal Administrators;
- vi. any other program available to several municipal units and other public sector entities such as hospitals and school boards, provided that municipal staff is satisfied that such program has been developed and conforms with the principles set out in section 5 of this Policy.

B. Request for quotations: May be used for purchases of up to \$10,000. See sections 8(3) and 9(3) of Policy.

A request for quotations process involves obtaining price quotations from a number of different suppliers. Requests for quotations are generally used when the cost of the goods or services does not warrant the time, effort and expense required for a public tender or RFP process.

Where this Policy requires formal, written quotations (for purchases between \$2,000 and \$10,000), quotations must normally be sought from at least three suppliers, but fewer suppliers may be used when three suppliers are not available within a reasonable distance, having regard to the value of the goods and services, the shipping or travel cost and the amount of time available before the goods and services are required to be available. If it is decided to obtain fewer than three written quotations, the person responsible for that decision must document their reasons for doing so.

Where this policy allows for informal, verbal quotations (for purchases less than \$2,000), it is recommended, but not required, that quotations be sought from three suppliers. The person obtaining the quotations must document each quotation, including the time, date, supplier, price and description of the goods and services, the person from whom the quotation was obtained and the name of the municipal employee who obtained the quotation.

C. Public tender: Used for purchases of over \$10,000. See sections 10 and 12 of Policy.

Public tenders can be in the form of “traditional tenders” or “requests for proposals” and involve publicly advertising the Town’s intended purchase of certain goods or services and inviting responses from interested suppliers. Traditional tenders and RFPs are used for higher value purchases, when the cost of the goods or services warrants the time, effort and expense required for a public tender process.

1. Traditional tender

A traditional tender is a competitive bidding process, consisting of a formal invitation to suppliers to submit a bid to supply specified goods or services. A traditional tender should be used when the purchase requirements of the Town can be clearly and completely specified. A traditional tender should not be used where it is clear that negotiations will be required after the close of tenders.

Traditional tenders do not have to be opened in public, but if they are not, the name of each bidder and the amount of their bid must be made available to each bidder after the tenders are opened.

The Town must not negotiate with any bidders, but must award the purchase contract to the bidder that meets the tender requirements and provides best value.

2. Request for proposals

A request for proposals is a formal invitation to suppliers to describe how their services, methods, equipment or products can address and/or meet the needs of the Town. An RFP may be used when the Town is unable to clearly or completely specify the goods or services required, and suppliers are therefore asked to provide a solution to the problem, requirement or objective. RFPs may also be used for professional and consulting services.

Request for Proposal documents should be drafted by the Department Head or an employee designated by the Department Head, in consultation with the Purchasing Officer.

In order to preserve confidentiality of sensitive commercial information contained in a proposal, proposals submitted in response to a request for a proposal need not be opened in public, but must be opened in the presence of at least two representatives of the Town, and after the proposals are opened a list of the proponents (but not prices) must be available to the public and the proponents upon request.

A Request for Proposal may be structured as a single phase or multiple phase process in order to select a successful proponent or proponents.

Negotiations may be conducted with a proponent after proposals have been opened, subject to complying with the terms of the RFP, which must be drafted to avoid unfair "bid-shopping" by the Town (that is, to avoid using the bids submitted as a negotiating tool to obtain a better price or other benefit).

The Town must award the contract to the supplier whose proposal is determined to provide best value to the Town based upon the evaluation criteria set out in the RFP and equitably applied to all proposals.

SCHEDULE “B” – SUSTAINABILITY FACTORS

Sustainability factors used in determining best value are as follows:

Environmental

- Is the product durable?
- Is it energy or fuel efficient?
- Is it certified by a recognized standards body or bodies (eg. Energy Star, OrganicCPRO, FSC, etc.)?
- Is it toxic or utilize toxic substances in manufacturing or operation?
- What is the ‘full- cost’ and ‘full-life’ of the product in terms of natural resource depletion, manufacturing impact (energy, pollution), transportation emissions, operation emissions, and disposal (waste)?
- Is it made from recycled materials?
- Is it recyclable?
- Is it minimally packaged?
- In the case of services, are the services delivered in a manner that minimizes energy consumption and carbon emissions?

Social

- Is the product ethically produced or services ethically provided, including:
 - fair wages for employees?
 - reasonable and safe working conditions for employees?
 - employees’ human rights respected?
 - product tested on animals?
- Is it certified by a recognized standards body or bodies (eg. TransFair, ISO)?
- Is there an opportunity to serve affirmative action goals?
- Is it healthy?