



**THE TOWNSHIP OF SOUTH STORMONT
COUNCIL POLICY**

POLICY NUMBER: XX-XX	DATE OF RESOLUTION: March XX, 2020
NAME: Procurement Policy	

1 LEGISLATIVE AUTHORITY

The *Municipal Act, 2001*, Section 270, provides that a municipality shall adopt and maintain a policy with respect to its procurement of goods and services.

2 PERSONS AFFECTED

Township Council, All Employees and Suppliers

3 PURPOSE

The purpose of this policy is to achieve best value for the Township through procurement processes that are open, fair and transparent.

4 POLICY STATEMENT

Township Council endeavors to conduct its procurement processes in accordance with the following principles:

- a) Compliance with all applicable laws, regulations, by-laws, policies and trade agreements as further set out in Schedule 1 to this policy;
- b) Using competitive processes unless the procurement meets specific conditions defined in Township approved procedures and in accordance with the applicable trade agreements;
- c) Open, fair and transparent procurement that affords equal access to all qualified suppliers;
- d) Reciprocal non-discrimination and geographic neutrality with respect to Ontario's trading partners and avoidance of preferences for local suppliers;
- e) Achieving best value for the Township in the expenditure of public funds by selecting appropriate procurement methods and using reasonable commercial terms;
- f) Effective balance between accountability and efficiency; and
- g) Ensuring adherence to the highest standards of ethical conduct.

5 APPLICATION

This policy applies to all Township procurement with the exception of the following transactions:

- a) Acquisition or sale of land;
- b) Insurance premiums, payroll tax and benefit remittances;
- c) Professional development, education, employee and Township Council training;
- d) Memberships or dues;
- e) Subscriptions for newspapers, magazines and periodicals;
- f) Postage;
- g) Charges or remittances to other governmental bodies;
- h) Operating grants to community and social groups;
- i) Original art work;
- j) Purchases during an Emergency as defined in this policy;
- k) Purchases from regulated utilities including electricity, water and/or sewage
- l) Charges or remittances to owners of utility infrastructure for movement, relocation or adjustments to their property located within a designated right of way; and
- m) Licenses, or maintenance agreements for existing, proprietary software systems

Notwithstanding that the transactions listed above are not subject to the procurement policy, Department Heads should ensure that the Township is receiving good value for all such purchases.

6 AUTHORITY TO COMMIT EXPENDITURE

Township Council will not be committed to any non-Emergency expenditure unless funds are allocated and approved in the current budget. Where provision in the budget is insufficient to meet the expenditure required the matter will be referred to Township Council for a decision.

Prior to Township Council approval of a new budget, a Department Head or designate may incur normal operating expenses.

The CAO or designate is authorized to sign purchase orders on behalf of Township Council and to delegate this authority to other employees. The employees who have the authority to sign purchase orders shall not order any goods or services over their delegated limit, or for which funding is not available or approved.

7 DELEGATIONS

The CAO is delegated to approve all Township procurement, provided that the value does not exceed **\$100,000** (excluding HST), is conducted in accordance with Township policy and procedures, and that the purchase does not exceed Township Council's current budget for this item.

The CAO is permitted to further delegate this purchasing authority to other Township employees, provided the delegation is in writing, dated and filed with the DoF.

Where there is a need to respond to an Emergency situation as defined in this policy, the CAO may authorize purchases in excess of the above delegated amount in order to adequately resolve the situation and shall then promptly report such required purchases within 30 days of the resolution of the emergency.

8 RESPONSIBILITIES

Township Council to:

- Allocate resources through approved operating and capital budgets
- Authorize purchases that exceed the delegated authority of the CAO

CAO or designate to:

- Act as Chief Purchasing Agent for the Township
- Establish standard procurement procedures in accordance with approved procurement policy, all applicable laws, regulations, and trade agreements
- Ensure organizational compliance with all applicable procurement policies, procedures, laws, and trade agreements
- Authorize purchases that exceed the delegated authority of the DoF or sign on behalf of the DoF during their absence.

DoF or designate to:

- Advise Department Heads on budget availability and potential sources of funding prior to initiating procurement
- Assign appropriate coding to be utilized for a Procurement Project
- Identify any applicable conditions which must be adhered to if grants are to be used in whole or in part to fund the procurement
- Arrange release of holdbacks and bonds upon contract completion
- Authorize purchases that exceed the delegated authority of Department Heads or sign on behalf of the Department Head during their absence
- Support the promotion of sound procurement practices and appropriate education and training to employees involved in procurement

Legal Counsel or designate to:

- Finalize contracts and agreements following the award and approval process and prior to commencement of work, as required
- Review and advise on proposed changes to contract terms and conditions
- Provide legal advice and counsel to the organization in the event of a contract dispute or challenge flowing from a Procurement Project

Department Head or designate to:

- Identify the need and develop requirements and specifications to be satisfied through a Procurement Project
- Build a procurement project plan and obtain appropriate approval and expertise prior to soliciting bids
- Identify an available and approved funding source and verify the assigned account

coding

- Authorize purchases that are within their delegated authority
- Ensure Department compliance with all procurement policies, procedures, applicable laws, trade agreements, regulations and applicable grant provisions
- Support the provision of appropriate education and training to employees involved in procurement
- Notify Finance Department once the project is completed.

9 PROCEDURES

The CAO shall, by way of official procedures, establish, implement and maintain the respective thresholds, approval processes and the methods of procurement to be utilized by the Township. Procedures are to be consistent with best practices and in compliance with all applicable laws, trade agreements and this policy. The procedures are to be made readily available to all employees, suppliers and the general public.

10 REPORTING

The CAO shall cause to be submitted to Township Council, on a rolling monthly basis, a procurement activity report which shall include information on all new Township procurement activity approved by administration in the previous month. The report shall include a listing of all new procurement contracts, noting the procurement method used, selected suppliers, contract value, as well as any amendments to existing contracts.

11 PROCUREMENT TRAINING

Department Heads will ensure adequate orientation and training is provided to all Township employees involved in procurement activities.

12 PROCUREMENT VALUE

In order to fulfill the Township's trade agreement obligations and to ensure that the appropriate procurement procedures are applied, an accurate estimate of the total value of the Procurement Project is required. The estimated procurement value should include all the costs payable to the contractor or supplier by the Township which are inherently related to the acquisition including any additional costs such as delivery, installation, training or maintenance fees.

Subdividing projects or splitting contracts to reduce the procurement value in order to avoid the requirements of this policy and approved procedures is not permissible.

13 CONFLICT OF INTEREST AND ETHICS

The Township's procurement process must be conducted with integrity so as to maintain the public's trust. The Township must ensure that it effectively manages internal and external conflicts of interest.

- a) Internal Conflict of Interest - The Township's *Employee Code of Conduct* must be adhered to in connection with all Procurement Projects.

All participants in the Procurement Project (including all involved members of the Department, and all members of the evaluation team) must ensure that there are no internal conflicts of interest.

The *Municipal Conflict of Interest Act* also regulates the manner in which current elected officials of the Township or their family members may engage in business with the Township where they have a pecuniary interest. Businesses in which a current elected official or their family has a pecuniary interest may be eligible to bid on work with the Township, provided that:

- i. they do not have role in creating, conducting or evaluating Bids;
- ii. the pecuniary interest is disclosed to Township Council prior to any discussions on the matter;
- iii. the matter is submitted to Township Council for approval prior to an agreement or other form of commitment being signed; and
- iv. they remove themselves and abstain from voting on any question relating to the matter.

- b) External Conflict of Interest - In addition to ensuring that there are not internal conflicts of interest, Procurement Projects must also be free of external conflicts of interest.

All suppliers are required to declare, as part of their Bid in a procurement process, that there are no conflicts of interest or provide details of any actual or apparent conflicts of interest. Department Heads must ensure that all procurement templates include appropriate conflict of interest language and declarations.

A conflict of interest can arise when a supplier is retained to participate in the development of a Competition Document (including the specifications) or to provide consulting services in connection with an initial or earlier phase of a multi-phase project. In such situations, Departments must assess whether such a supplier would have an unfair advantage over other Bidders as a result of their previous work on the project. If it is determined that such an advantage exists, the Township must then further determine whether it can be effectively mitigated. If an advantage exists and it cannot be effectively mitigated, the supplier should be precluded from submitting a Bid or directly or indirectly participating in the submission of any Bid in response to a subsequent or related Competition Document.

Departments should conduct this assessment at the beginning of the entire Procurement Project before any suppliers have been retained. Where it is determined that a potential Bidder will be disqualified from participating in downstream phases because of a conflict of interest, it must be disclosed in the initial procurement process by which the supplier is retained.

14 NON-COMPLIANCE

Township employees must adhere to the Township's procurement policies. Department Heads and the CAO are responsible for ensuring compliance. If and when non-compliance is detected the

Department Head is responsible for reporting such activity to the CAO and/or DoF.

15 DEFINITIONS

“Bid” means a submission in response to a Competition Document;

“Bidder” means a supplier that submits a Bid;

“CAO” means the Chief Administrative Officer for the Corporation of the Township of South Stormont;

“Competition Document” means the document used to solicit Bids and includes Invitation to Tender (ITT); Request for Proposals (RFP); Request for Quotations (RFQ); and Request for Supplier Qualification (RFSQ);

“DoF” means the Director of Finance for the Corporation of the Township of South Stormont;

“Department” means any Department within the Corporation of the Township of South Stormont. Various departments include, but are not limited to, Administration, Building, Economic Development, Finance, Fire and Rescue, Planning, Protection of Persons and Property – Other, Recreation, Transportation Services, Waste Management, Waste Water, and Water or as may be designated by the CAO;

“Department Head” means a head of a department operating within Township of South Stormont, being the Department Head of: Building, Corporate Services, Finance, Fire and Rescue, Planning / Economic Development, and Public Works;

“Emergency” means a situation where -

- An official state of emergency is proclaimed under the *Emergency Management and Civil Protection Act*; or
- an exceptional circumstance occurs with an immediate risk to the safety or health of an employee or a member of the public; or
- there is an immediate risk of damage to public or private property;

“Legal Counsel” means the Township's designated legal representative;

“Procurement” means the process by which the Township obtains goods and services to support the delivery and maintenance of municipal programs, services and infrastructure. Effective procurement is a critical support function for the Township in responsibly managing public funds;

“Procurement Project” means any purchase of goods, services or construction by one of the Township's Departments; and

“Suppliers” means those who have been selected through a procurement process to supply goods or services to the Township.

16 POLICY REVIEW SCHEDULE

This policy will be reviewed and revised, as required, on a periodic basis. It is anticipated that reviews will be conducted at least once during each Township Council term.

17 REVISION HISTORY

Effective Date: November 30, 2005
Revision Date: December 17, 2008
Revision Date: November 25, 2015
Revision Date: **March xx, 2020**

Draft

Schedule 1

1. Procurement activities at the Township of South Stormont must be conducted in accordance with all applicable laws, regulations and standards, including, but not limited to:
 - i. *Income Tax Act* and Regulations;
 - ii. *Excise Tax Act* and Regulations;
 - iii. *Occupational Health and Safety Act* and Regulations;
 - iv. *Workplace Safety and Insurance Act* and Regulations;
 - v. *Municipal Freedom of Information and Protection of Privacy Act* and Regulations;
 - vi. *Municipal Act* and Regulations;
 - vii. *Competition Act* and Regulations;
 - viii. *Accessibility for Ontarians Act*;
 - ix. *Municipal Conflict of Interest Act*; and
 - x. Township Bylaws, policies and administrative procedures

2. Procurement activities at the Township must also comply with the following trade agreements:
 - i. Canadian Free Trade Agreement (CFTA) – all Provinces & Territories
 - ii. Ontario-Quebec Trade and Cooperation Agreement (OQTCA)
 - iii. Comprehensive Economic and Trade Agreement (CETA) – Canada & European Union (EU)