

Council Policy

Council Policy #:	
Council Policy Name:	Procurement Policy
Date Approved by Council:	
Date revision approved by Council:	
Related SOP, Management Directive, Council Policy	Procurement Policy; Management Directive; Procurement Sustainable Policy

Policy Statement and Rationale:

To ensure objectivity, accountability and transparency in procurement processes. To encourage competition among suppliers by obtaining the highest quality goods, services or construction to maximize efficiencies, effectiveness, sustainability and cost savings, while ensuring that the Municipality has the flexibility to limit the purchase of goods and services where significant efficiencies and cost effectiveness may be achieved.

Scope:

The Procurement Policy is intended to govern the manner in which the Corporation of the City of Kawartha Lakes purchases goods and services.

When a Board or Corporation has the authority to develop their own procurement policy, their policy and procedures shall prevail.

Policy:

1.0 Definitions

- 1.1 Accessibility - A general term for the degree of ease that something (e.g., device, service, physical environment and information) can be accessed, used and enjoyed by persons with disabilities. The term implies conscious planning, design and/or effort ensuring something is barrier-free to persons with disabilities. Accessibility benefits the general population, by making things more usable and practical for everyone, including older people and families with small children.
- 1.2 Aggregate Value - means the total amount anticipated to be spent for the initial term and any optional extensions, including the City's HST Tax payable.

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- 1.3 Award - is when a selected supplier and the City execute a legal contract for the supplier to supply or perform the goods and/or services.
- 1.4 Bid Repair - means any response, which leads to a substantial change in the bid is considered bid repair and must not be considered in the bid evaluation.
- 1.5 Board - means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding a school board and a conservation authority.
- 1.6 Budget - refers to the Council approved annual budgets.
- 1.7 CAO - means the Chief Administrative Officer of the City.
- 1.8 Change Order - occurs when additional work is added to the contract, where that work was already specified in the procurement document.
- 1.9 Change in Scope - shall mean an addition of materials, equipment, etc. not originally provided for in the contract specifications.
- 1.10 City - means the Corporation of the City of Kawartha Lakes.
- 1.11 City Clerk - means the person appointed by Council to carry out the duties of the Clerk described in section 228 of the Municipal Act, 2001.
- 1.12 Compliant Bidder - is used to describe a supplier or potential supplier who has complied with all the requirements of a procurement process.
- 1.13 Contingency - means an event or circumstance, that occurs, in the process of implementing the original scope of work, that gives rise to an increase in a contract price which could not have been reasonably anticipated at the time of contract award (unforeseen).
- 1.14 Contract - means a formal commitment by both parties, which may be in the form of an agreement executed by the supplier and the City or a Purchase Order issued by the City and confirmed by the supplier.
- 1.15 Cooperative Procurement - means the participation of two or more public agencies in a procurement process.
- 1.16 Council - means the Municipal Council for the City.

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- 1.17 Director - means the person who holds that position and their delegate or, in the event of organizational changes, another person designated by Council (includes the position of Fire Chief and Paramedic Chief).
- 1.18 Emergency Procurement - is when the immediate purchase of goods or services is essential to prevent serious delays, mitigate fiscal impact, damage or injury, to restore minimum service or to ensure the health and safety of any person, including City staff or residents of the City.
- 1.19 Employee-Employer Relationship - is applicable when a person's daily work is directed or controlled by the business, particularly when the method of executing duties is defined and an integral part of day-to-day operations.
- 1.20 Expression of Interest - is a procurement method used to determine interest, where the scope of specifications for goods or services may not be clearly defined.
- 1.21 Forfeit of an Award - means a supplier has failed to enter into a contract with the City.
- 1.22 Goods, Services and Construction - include supplies, equipment, property, construction, maintenance and service contracts, consulting and professional services.
- 1.23 Lobbying - communicating with, anyone other than the person designated in the procurement document, for the purpose of swaying the results of an award of a procurement process.
- 1.24 Major or Minor Irregularities - "major irregularity" is a deviation from the competitive procurement process request that affects the price, quality, quantity or delivery, and is material to the award. A "minor irregularity" is a deviation from the competitive procurement process request, which affects form rather than substance.
- 1.25 Non-Compliant Bidder - is a supplier or potential supplier who does not meet all the requirements of a procurement process.
- 1.26 Pre-qualification Request - invites prospective suppliers to provide background information, capabilities and resources for upcoming specific procurements.
- 1.27 Procurement Process - is the method selected to procure a good and/or service.

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- 1.28 Provisional - means an item for which a bid amount is being requested and may be added or removed at time of award.
- 1.29 Purchase Order - is a type of agreement issued by the City to a seller, indicating types, quantities and agreed prices for a specific product, service or construction.
- 1.30 Qualified Bid - is a statement added to any portion of the submission or a covering letter for a low bid procurement that alters the intent of the procurement (counter offer).
- 1.31 Request for Informal Quotation - is a procurement process issued by the Department for purchases under the thresholds in the Table of Authority, where three or more potential suppliers are contacted to provide a submission for specific, defined commodities.
- 1.32 Request for Quotation/Proposal/Tender (Formal) - is a procurement process issued and opened by the Procurement Division.
- 1.33 Roster - is a prequalification process to add suppliers to a list where second stage processes will be used to determine the award for specific amounts.
- 1.34 Segregation of Duties - is an internal control designed to prevent error and fraud by ensuring that at least two individuals are responsible for the separate parts of any task (ie. Purchase, approve and pay).
- 1.35 Single Source - means there is more than one source in the open market but for reasons of function or service, one supplier is being recommended.
- 1.36 Sole Source - means there is only one known source of manufacture or supply of a particular good and/or service.
- 1.37 Supplier - means the legal entity that the City is requesting a bid from or entering into an agreement with.
- 1.38 Sustainable Procurement Policy - was created to increase the development and awareness of environmentally preferred products and services, and align the City's Procurement practices.
- 1.39 Top Ranked Supplier - means the lowest compliant or highest scoring supplier.

2.0 Responsibilities:

- 2.1 Council is responsible to establish the City's procurement methodology through this policy.

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- 2.2 The Chief Administrative Officer is accountable to approve the detailed management directives that establish the operational framework.
- 2.3 Corporate Services is responsible to ensure that the City's Policy and Management Directive are adhered to.

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3.0 Procurement Guidelines

- 3.1 Procurement practices shall be in accordance with all applicable federal and provincial legislation and local By-Laws, Trade Ageements, Policies, Code of Conduct, **Competition Bureau and Discriminatory Business Practices Act, R.S.O. 1990, c. D.12.**

Some examples that are strictly prohibited according to the above:

- 3.1.1 Local preference (***Discriminatory Business Practices Act and Competition Bureau***) except as noted in 5.2;
 - 3.1.2 Limited tendering (Single/sole source)(**Trade Agreements**);
 - 3.1.3 Lobbying (Management Directive); and
 - 3.1.4 Conflict of Interest (Code of Conduct).
- 3.2 All City staff and members of Council will advise the Supervisor of Procurement, in writing, of any perceived, potential or actual conflicts in accordance with the City's Code of Conduct Policies before being involved in a Procurement process.
- 3.3 The procurement of goods and services will be evaluated for risk to the City's ability to perform public services in a safe, secure and healthy environment and considers safety, accessibility standards, financial stability and quality of workmanship.
- 3.4 Staff will ensure that any agreements/contracts, other than the approved City's Form of Agreement will be reviewed by the City Solicitor as required.
- 3.5 The City shall implement terms and conditions with the supplier to keep safe the City's staff, funds, property and capital assets.
- 3.6 If a supplier forfeits an award, the City will ban them from submitting any future bids for an indefinite amount of time for failing to enter into a contract.
- 3.7 Suppliers who do not perform according to the specifications outlined in the Procurement document, may be considered in breach or default of the contract and may be terminated.
- 3.8 Access to formal procurement process results information shall be made available according to the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

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- 3.9 The Procurement Division will provide debriefs within 60 days of notification of award. Debrief requests after the 60 days may be deferred to the Clerk's Office for a Municipal Freedom of Information request.
- 3.10 The Procurement Division will maintain a vendor performance program that all Departments can refer to for previous performance and incident reports.
- 3.11 A prequalified vendor listing will be available on SharePoint for Department internal use when requesting quotations for work within their approval limits.
- 3.12 The City will disqualify a supplier:
- 3.10.1 if found to be engaging in lobbying with any elected official or City staff member for such purposes as to sway the results of an award of a procurement process. This period would cover the intent to procure (project conception/budget) up to the final award of the project.
 - 3.10.2 that has litigation against them that would affect their performance or reputation in performing the service or providing the goods and services requested by the City.
- 3.13 No expenditure or commitment shall be incurred or made and no account shall be paid by the City for goods and services, except as authorized in accordance with this policy or approved by the CAO or the Corporate Services Director and/or Council.
- 3.14 All suppliers must disclose, in writing, any perceived, potential or actual conflict of interest prior to accepting an award from the City. If one arises after an award has been made, the City must be notified immediately.
- 3.15 All suppliers shall ensure that they, along with all of their employees, volunteers and others for which they are responsible, comply with the Accessibility for Ontarians with Disabilities Act and associated Regulations and the City's Accessibility Policy. All information (studies, reports, procurement submissions, etc.) provided to the City from a supplier will be in an accessible format.
- 3.16 All submissions will be evaluated to determine if the expectations of the procurement have been met.
- 3.17 The City shall establish a management directive authorized by the CAO on behalf of Council detailing the expectations of this Policy.

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4.0 Financial Considerations

- 4.1 The City has a table of authority for procurement limit spending. See Schedule A for full details.
- 4.2 Procurement awards for contracts must be approved by Council if:
- a) It is a change in scope and the Treasurer has recommended a report to Council in accordance with the Capital and Special Project Policy;
 - b) It is for operating and exceeds 5 years including renewals; or
 - c) It is a Single or Sole Source that exceeds the thresholds in the Table of Authority;

- 4.3 Irregular results of a competitive procurement process require that the selection of the supplier for an award be approved by Council. The results of a competitive procurement process are considered to be irregular when any of the following occurs:
- a) Where all responsible and responsive submissions exceed the budget allowances in the Capital and Special Project Policy; or
 - b) An award of the contract to the Top Ranked supplier is considered to not be in the best interest of the City;

The Procuring Department will be responsible for doing the report to Council for any irregular results in coordination with Corporate Services. Emergencies will be reported through the Capital and Special Projects Close Report.

Procurement will report to Council, in the first quarter of the new term, all operating contracts that may span from one term to another.

- 4.4 In the case of Restricted Acts (Lame Duck), Section 275 of the Municipal Act 2001, as amended allows delegation of Council's purchasing authority to be given to the CAO. The CAO will report to the new Council, purchases authorized during this delegated authority period.
- 4.5 Where a funding or granting agency has rules for a procurement process that exceed this policy, the agency's rules for tendering and risk management shall override this policy.
- 4.6 Where a funded independent Board or Corporation has been established by Council, the Board shall have the same level of authority as Council with respect to signing authority and the Chief Executive Officer, or equivalent, shall have the same level as the CAO.

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- 4.7 An award may have optional renewal period(s) added to the term, but the aggregate spend for all years must be taken into consideration to ensure the correct approvals are being obtained according to the Table of Authority.

5.0 Procurement Process

- 5.1 A formal competition (managed by Procurement) will be advertised when the Goods and/or Service is at the trade agreement thresholds.
- 5.2 An Invitational competition may be followed when the goods and/or service is less than the trade agreement thresholds.
- 5.3 Procurements that require specific brand named equipment or materials and no equivalent is being considered, must show that quotes were obtained or a single source has been approved prior to the items being included in the document.
- 5.4 The City may participate with other government agencies or public authorities in co-operative procurement opportunities, so long as they are in compliance with current legislation. The City will maintain a list of agencies they may participate with on an annual basis on the City's Website.
- 5.5 Emergency Procurement – When an event occurs where the immediate purchase of goods or services is essential to prevent serious delays, incremental costs, damage or injury, to restore minimum service or to ensure the health and safety of any person, including City staff or residents of the City. The Department Director may authorize the immediate procurement of the good or service required. All Emergency procurements will be reported to council through a quarterly report, as noted in item 4.3.
- 5.6 Single/Sole Source - may be used, under certain defined circumstances, where one supplier is being recommended to supply the commodity or perform the work. The approval of a single/sole source will be agreed upon between the Department and Procurement Division with approvals according to the Table of Authority.
- For any matters involving security, police, or confidential issues, a purchase may be made in a manner that protects the confidentiality of the contractor or the Corporation. Such purchases should be put through as a Sole Source Purchase;
- 5.7 A Roster will be used to pre-approve vendors to be on a list where second stage informal quotations may be issued within specific thresholds.

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- 5.8 Any complaint on the Procurement Policy and/or Management Directive or a complaint related to an award of a competitive process, shall be submitted in writing to the Corporate Services Director.

Complaints regarding the administration of a contract will be handled by the Department Director.

- 5.9 All bid dispute resolutions will be in compliance with current legislation.
- 5.10 The City may consider, when evaluating bids, whether a bid is unbalanced or unexpectedly low so as to indicate a failure on the part of a supplier to accurately assess scope and/or indicate a likelihood of extra claims. The City may request clarification which may or may not result in disqualification of the supplier.

6.0 Real Estate Developer Finance Capital

Where a real estate developer has requested, in writing, the use of a particular supplier for services being performed on a project, for which the real estate developer is funding the entire cost, no procurement process shall be required, provided the supplier is acceptable to the City.

7.0 Sponsorships and Donations

Where a donation or sponsorship request is received by the City, the Department will consult with the Procurement Division to ensure any process remains fair, open and transparent.

8.0 Standardization of Equipment

The City will standardize goods and services through a competitive process whenever possible and must be in compliance with legislation. The Procurement Division will work with the Department to determine the best procurement process for standardization.

9.0 Disposal of Assets

- 9.1 The City shall determine the best method to dispose of City assets no longer required for operations. Some of the methods may include but not limited to:
- Sale by Tender;
 - Local Auction House;
 - Donation to a not for profit agency (must be Council approved);
 - Government Auction.
- 9.2 Employees and elected officials of the City may bid on items provided that:
- they do not possess nor do they try to ascertain relevant insider information that would influence their offer;

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- they remove themselves from submitting an offer on items that may be construed as a conflict of interest;
- they comply with all the requirements of the public sale.

10.0 Exemptions

Schedule A shows exemptions to the Policy where no competitive process is required. Purchase orders will be issued according to the table of authority if requested.

Revision History:

Revision	Date	Description of changes	Requested By

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Schedule A – Table of Authority

1.0 Table of Authority (See Schedule A in the Management Directive for details)

Type of Acquisition	Approver	Approval Amount	Procurement Process	Agreements
No Procurement process required	Department Staff	Per the Table of Authority in the Management Directive	Informal Request for Quotation by the Department	Director signs all agreements after all approvals have been received.
	Manager and/or Supervisor		Informal Request for Quotation by the Department	
	Director		Informal Request for Quotation done by the Department	
Competitive within Budget	Director	As per the Trade Agreements	Formal Request for Quotation process by Procurement	
Sole Source and Emergency	Manager, Director, Treasury and Procurement	Per the Table of Authority in the Management Directive	Single Source/Emergency	
Competitive over budget Irregular results	Council	Irregular Results	All irregular results will be sent to Council for approval.	

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Schedule B - Procurement Exemption List

If the procurement falls within this list, no competitive process is required. Purchase orders will be issued according to the table of authority if requested.

- a) Advertising (not intended to cover the cost of creative fees or project management fees associated with media expenditures, advertising or marketing)
- b) Building Leases
- c) Charges from area Municipalities in association with legal agreements
- d) Committee, witness and honoraria fees
- e) Conference/Trade show staff attendance, including travel and accommodations
- f) Debenture and sinking fund payments
- g) Election expenses
- h) Employment Requirements (See Management Directive for details and clarifications)
- i) Financial and economic services (See Management Directive for clarifications)
- j) Attachments for brand specific City owned equipment (See Management Directive for details and clarifications)
- k) Grants to Government and Council approved Agencies
- l) Insurance Claim Payments
- m) MPAC Fees
- n) Legal Settlements
- o) Licenses (vehicles, elevators, radios, etc.)
- p) Licenses and maintenance costs for integrated software and systems
- q) Maintenance for specialty equipment (i.e. Equipment that is not easily moved and will incur float charges)
- r) Payments made under authority of the City's Manager, Housing role for Human Services
- s) Periodicals, books, magazines and subscriptions
- t) Postage
- u) Professional licensed services: Legal Services, Notaries, Health Professionals, Land Surveyors, Arbitrators, Interpreters, Court Reporters
- v) Real property and property appraisals (covered under By-Law)
- w) Renovation at a leased space where the lessor can only perform the renovation
- x) Statutory Employment expenses
- y) Staff Training (education and professional membership fees and associated costs)
- z) Utilities where there is only one provider
- aa) Water and Wastewater Chemicals