

THE CORPORATION OF THE MUNICIPALITY OF GREENSTONE

BY-LAW 17-23

Being a By-law to Provide for the Procedures for the Procurement of Goods and Services by the Municipality of Greenstone

WHEREAS the Municipal Act, 2001, c. 25, Part VI, Section 270(3) as amended states that a municipality shall adopt and maintain policies with respect to its procurement of goods and services, including policies with respect to,

- (a) the types of procurement processes that shall be used;
- (b) the goals to be achieved by using each type of procurement process;
- (c) the circumstances under which each type of procurement process shall be used;
- (d) the circumstances under which a tendering process is not required;
- (e) how the integrity of each procurement process will be maintained;
- (f) how the interests of the municipality or local board, as the case may be, the public and persons participating in a procurement process will be protected;
- (g) how and when the procurement processes will be reviewed to evaluate their effectiveness; and
- (h) any other prescribed matter,

AND WHEREAS Part I, Section 5 (3) of the *Municipal Act*, 2001, c. 25 as amended requires the powers of a municipality to be exercised by its Council through the enactment of by-laws;

AND WHEREAS the Council of the Corporation of the Municipality of Greenstone deems it necessary to enact a by-law that establishes the authority and sets out the methods by which goods and services will be purchased;


NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF GREENSTONE ENACTS AS FOLLOWS:


THAT Schedule "A, B and C", which is attached to and forms part of this By-law, is the Municipality of Greenstone procurement policy adopted and maintained in accordance with paragraph 270(1) 3 of the Municipal Act, 2001.

THAT By-Law 05-27 as amended is hereby repealed.

ENACTED AND PASSED this 27th day of March 2017.




Renald Beaulieu,
Mayor


Gabrielle Lecuyer,
Clerk

SCHEDULE A BY-LAW 17-23

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1 **DEFINITIONS**

In this by-law:

“agreement” means any formal or deliberate written agreement or contract for the supply of goods, services, equipment or construction that binds the Municipality and the parties involved, subject to the provisions of the agreement;

“award” or “awarding” mean the authorization to proceed with the purchase of goods and services from a chosen vendor;

“bid” means an offer or submission from a vendor or vendor in response to a bid solicitation;

“bid bond” means the form of security (currencies, certified cheques, or bond surety) required by the terms and conditions of the bid request to guarantee that the successful bidder will enter into an agreement;

“bid irregularity” means a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid; (see Schedule “B” Bid Irregularities)

“bid solicitation” means a formal request for bids that may be in the form of a Request for Tender or Request for Proposal;

“blanket order” means an agreement wherein a vendor will sell certain items to the Municipality for an agreed period of time with established terms and conditions;

“CAO” means the Chief Administrative Officer for the Municipality of Greenstone;

“Clerk” means the Municipal Clerk for the Municipality of Greenstone;

“consultant” means persons who by virtue of their expertise in a particular field are hired by the Municipality to undertake a specific task or assignment and includes architects, auditors, engineers, designers, surveyors, management and financial consultants, brokers, legal services, and any other professional and consulting services;

“contract” means any formal or deliberate written agreement for the purchase of goods, services, equipment or construction that binds the Municipality and the parties involved, subject to the provisions of the agreement;

“Corporation” means the Corporation of the Municipality of Greenstone;

“Council” means the Council of the Corporation of the Municipality of Greenstone;

“Directors” mean the Director of Corporate Services, the Director of Protective Services, the Director of Public Services, the Director of Community Services, the Director Fire Services and the Economic Development Officer;

“emergency purchase” means the purchase of any goods and service whose immediate procurement is essential to protect the health and safety of the public or to prevent serious operational delays or to prevent further damage to property;

“goods” means all supplies, products, wares, merchandise, material, equipment, and property insurance;

“local supplier” or “local vendor” means any person supplying goods and services to the Corporation of the Municipality of Greenstone whose residence is located

within the boundaries of the Municipality of Greenstone, or any business supplying goods and services to the Corporation of the Municipality of Greenstone that is located within the boundaries of the Municipality of Greenstone;

“performance bond” means a bond issued by a surety company which secures the performance and fulfillment of the undertakings, covenants, terms, conditions and agreements contained in the contract;

“proposal” means an offer to provide goods and services to the Corporation where it is not practical to prepare precise specifications or where alternative solutions to arrive at an end product will be considered, and which may be subject to further negotiation;

“procurement” means the process of acquiring goods and services by purchase, rental, or lease;

“purchase order” means the Corporation of the Municipality of Greenstone purchasing document used to formalize a purchasing transaction with a vendor;

“quotation” means an offer to sell goods and services to the Corporation or an offer to purchase surplus goods from the Municipality;

“sealed bid” means a formal sealed response received as a part of a quotation, tender, proposal or submission;

“services” means all professional services and consulting services, all services in relation to real property and personal property including the installation, construction, maintenance, rental, repair, restoration, demolition or removal of real property or personal property;

“single source” means there is more than one source in the open market but only for reasons of function or service one vendor is recommended for consideration of the particular goods and/or services;

“submission” means a response to a request for the purchase of goods and services issued by the Corporation;

“supplier” means any person or business supplying goods and services to the Corporation of the Municipality of Greenstone;

“tender” means a document which sets out particular specifications for the goods or service required;

“vendor” means any person or business supplying goods and services to the Corporation of the Municipality of Greenstone;

2. GOALS AND OBJECTIVES

The goals and objectives of this By-law are:

- a) to provide a process for the most efficient and effective use of public funds consistent with the required quantity and quality of goods and services, at the right time, from the right source,
- b) to provide a process that encourages competitive bidding for the acquisition of goods and services on all but minor routine purchases.
- c) to provide an open process whereby the needs of the Municipality are communicated to all bidders who are able to bid on the goods and services they are qualified to provide,

- d) to provide a fair process that ensures that no bidder is given an unfair advantage,
- e) to provide a transparent process that provides a clear definition of the goods and services required, and a clear outline of the review criteria by which the procurement decision is made,
- f) to provide clear direction and accountabilities thereby protecting Council, staff and vendors involved in the process,
- g) to provide a process that encourages open competitive bidding for the disposal of goods and services where practical.
- h) to have regard to the accessibility for persons with disabilities to the goods and / or services purchased by the Municipality of Greenstone, as well as to the Procurement Process itself.

3. AUTHORITIES AND RESPONSIBILITIES

Council has ultimate authority for all expenditures through budget appropriation or specific resolution.

The Municipality reserves the right to accept or reject any submission.

The CAO has the authority to cancel, restrict, or alter any procurement activity or decision where such action is considered necessary, and in the best interests of the Municipality.

The Director of Corporate Services shall be responsible for providing procurement advice to Directors, and for monitoring compliance with this By-law.

Directors shall be responsible for and shall have authority for, all procurement activity and decisions within their Department and may delegate their authority where appropriate.

The Municipal Clerk is required to forward to the relevant Departments, copies of all legally executed contracts relating to the procurement of goods and services.

No employee shall purchase on behalf of the Corporation, any goods and services except in accordance with this By-law.

Elected officials shall not approve nor acquire any goods and services.

No personal purchases of goods and services will be made for elected members or employees of the Corporation.

Employees or elected members of the Corporation shall not accept any personal gifts or allowances in return for dealing with a specific firm or vendor.

All Council members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended.

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

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

An employee has an indirect pecuniary interest in any contract in which the municipality is concerned, if the employee or his immediate family member

- Is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public that has a pecuniary interest in the contract,
- Has a controlling interest in or is a director or senior officer of , a corporation that offers its securities to the public that has a pecuniary interest in the contract, or
- Is a member of an incorporated association or partnership, that has a pecuniary interest in the matter, or
- Is in the employment of a person, unincorporated association or partnership that has a pecuniary interest in the contract.

Directors or their designates are responsible for checking all mathematical extensions and/or taxes on all submissions for their Department.

This By-law shall be followed by all firms acting on behalf of the Corporation when a duly authorized purchase of goods and services is required to be put to public tender.

Council shall review this By-law every five years, or earlier if required.

4. GUIDELINES

The locality of the vendor, and the vendor's ability to provide warranty service and ongoing servicing will be a major factor used when evaluating bids, and for not accepting the lowest bid.

At no time are purchases for goods and services to be split into blocks to avoid tendering, obtaining of purchase orders, or Council approval.

All purchasing of goods and services shall be duly authorized.

Except as otherwise stipulated, any purchase of goods and services shall be made on a competitive basis.

A minimum of three competitive bids is required. More than three bids is encouraged.

There shall be no limitation of bids to an established listing.

Where practical, cooperative purchasing activities are encouraged that reduce duplication and provide economies of scale.

Purchases required prior to the adoption of the annual Operating Budget may be made using the procedures in this By-law up to a maximum of 50% of the prior year's Budget.

Capital purchases are only authorized through an approved Capital Budget, or by Council resolution approving such purchase prior to the adoption of the Capital Budget.

Out of Country purchases shall only be authorized if goods are not available in Canada.

All purchases made outside the Municipality of Greenstone must be accompanied by an approved purchase order.

This By-law and all Municipality of Greenstone policies relating to the procurement of goods and services are to be made available to the public upon request.

When purchasing goods and services, the Municipality of Greenstone will incorporate accessibility design, criteria, and features. Where applicable, Procurement documents will specify the desired accessibility criteria to be met and provide guidelines for the evaluation of Bids in respect of those criteria. Where it is impractical for the Municipality to incorporate accessibility criteria and features when purchasing specific goods and services, a written explanation will be supplied upon request.

5. PURCHASE OF GOODS AND SERVICES

Goods and services that are not subject to this By-law are listed in Schedule "A" to this By-law.

Direct Purchase:

- \$2,499.00 or less (excluding HST)
- no Purchase Order required
- no formal quotes required
- may only be made by a designated person from within the Department.

Informal Request for Quotations:

- \$2,500.00 to \$9,999.99 (excluding HST)
- requires a minimum 3 quotes (verbal or written)
- requires written specifications detailing exactly what the bidders are to bid on and the criteria to be used for the evaluation process
- may be placed in local and/or appropriate trade newspaper
- Director to receive submissions
- not necessary to disclose prices and terms to public
- requires justification in writing for a recommendation to award in those cases where less than three (3) quotations are received
- requires an individual purchase order authorized by the Director.

Formal Request for Quotations:

- \$10,000.00 but less than \$24,999.99 (excluding HST)
- requires a minimum of three (3) written quotes which shall be attached to invoices submitted for payments
- requires written specifications detailing exactly what the bidders are to bid on and containing the criteria to be used for the evaluation process
- Requests for Proposals may be placed in the local and/or appropriate trade newspapers
- Director to receive all written submissions
- not necessary to open written submissions in public
- not necessary to disclose prices and terms to public
- requires justification in writing for a recommendation to award in those cases where less than three (3) quotations are received
- requires approval by the CAO or the Director of Corporate Services.

Public Tender Purchases:

- \$25,000.00 and more (excluding HST)
- requires bid documents that contain:
 - Instructions to Bidders that include all the non-technical information that the bidders will need to know in order to submit a bid e.g. closing date, time and location, contact person
 - Specifications that contain all of the details of the items or services required e.g. description and/or set of engineering specifications
 - Terms & Conditions that set out the rules under which the business will be conducted e.g. payment terms, start and end dates etc.
 - Pricing Schedule containing the pricing information with a section for an authorized signature binding the bidder to the terms of the bid document.
- Requests for Tenders may be issued through a public process such as placing a notice in the appropriate local and/or trade newspaper, or by “Invitation Only” to select consultants with proven expertise and experience
- requires sealed bids
- Clerk to receive all submissions
- submissions to be opened in public
- only limited information to be made available to the public i.e. name of bidder and their total bid price, inclusive of all applicable taxes if available
- bids are equally evaluated by the Director
- a recommendation to award is to be prepared by the Director
- Requires CAO approval for items up to \$50,000
- Council approval for items over \$50,000 or in case of capital items that exceed budgeted amounts.
- requires an individual purchase order authorized by the CAO or the Director of Corporate Services.
- All purchases over \$25,000 are to go to formal RFP or Tender unless otherwise approved by the CAO under the authority and responsibility per section 3 of this policy.

Request for Proposals – RFP (including Professional & Consulting Services)

- used when one or more of the following applies:
 - the requirements for goods and services cannot be definitely specified
 - alternative methods are necessary to perform certain functions or services
 - it may be necessary that negotiations with one or more of the vendors is necessary with respect to any aspect of the requirement.
- does not require sealed tenders
- requires specifications providing the information needed to evaluate and understand the requirements of the work to which the RFP refers to and containing a statement outlining the general evaluation process that will be used
- may be issued through a public process such as placing a notice in the appropriate local and/or trade newspaper, or by “Invitation Only” to select consultants with proven expertise and experience
- proposals must be submitted in writing
- Directors to receive submissions
- requires a written evaluation for every submission, and every submission will be evaluated using the same criteria. The following evaluation criteria is to be used as a guideline, but is not limited to, when scoring submissions:
 - equipment and facilities
 - experience and qualifications
 - approach/methodology
 - availability
 - past performance
 - project schedule
 - price and strategy
 - interview.
- submissions not formally opened in public

- submissions to remain confidential. Prices or terms are not to be disclosed to the public at the time of submission
- Requires CAO approval for items up to \$50,000
- Council approval for items over \$50,000 or in case of capital items that exceed budgeted amounts.
- requires an individual purchase order authorized by the CAO or the Director of Corporate Services.
- All purchases over \$25,000 are to go to formal RFP or Tender unless otherwise approved by the CAO under the authority and responsibility per section 3 of this policy.

6. BIDS IN EXCESS OF PROJECT ESTIMATES

Where bids are received but exceed project estimates, the CAO and/or the Director of Corporate Services may enter into negotiations with the lowest compliant bidder to achieve a bid acceptable within the project estimate.

7. CONDITIONS THAT APPLY TO ALL BID (TENDER) SUBMISSIONS

The following conditions apply to all bid submissions. There are no exceptions:

- a) Bid documents must be submitted in the manner outlined in the bid document i.e. in clearly marked envelopes.
- b) All bids shall be signed as received on the sealed envelope with the name of the bidder, the initials of the employee receiving the bid, and the date and time of receipt of the bid.
- c) All bids received later than the specified closing date and time will be returned, unopened to the bidder.
- d) A bidder who has already submitted a bid but wishes to submit a further bid may do so up until the official closing time. However, the last bid will supersede and invalidate all bids previously submitted by that bidder.
- e) A bidder may withdraw his bid any time up until the official opening of the bids provided the request is in writing.
- f) Following the closing date of bids (tenders), that the names of the bidders who have submitted a bid are available to the public upon request.
- g) The official opening of bid submissions shall be open to the public at a time and place to be specified in the bid document.
- h) The Municipality has the right to postpone or cancel the official opening of bid submissions at any time.
- i) Unsuccessful bidders have the right to attend a debriefing session with a Director to review their submission only. Discussion of other submissions is strictly prohibited.
- j) Disputes between an unsuccessful bidder and the Municipality shall be resolved as follows:
 - i) initially a meeting between the bidder and the appropriate Director;
 - ii) if the meeting between the bidder and the appropriate Director does not lead to a resolution, the matter can be forwarded to the Director of Corporate Services or CAO;

- iii) if the Director of Corporate Services or CAO cannot resolve the dispute, the bidder can submit his/her concerns in writing to Council for consideration.
- k) Bidders may be required to submit a Bid Bond to guarantee good faith.
- l) Successful vendors may be required to submit a Performance Bond upon acceptance of the tender by the Municipality.
- m) The Municipality of Greenstone is authorized to cash and deposit any Bid Bond or Performance Bond into the Municipality's possession that is forfeited as a result of non-compliance with any of the terms, conditions, and/or specifications of a sealed bid.

8. **BLANKET ORDERS**

Using the provisions of this By-law, Directors may enter into a Blanket Order Agreement with a vendor for the provision of goods and services for a specific time period.

9. **DIRECT NEGOTIATION**

Where the required goods and services are only available from a single source, and it is not reasonable to attempt to purchase the goods and services using another method, the CAO and/or the Director of Finance may enter into negotiations with a particular vendor for the purchase of the required goods and services.

10. **EXPRESSIONS OF INTEREST**

Directors may conduct a request for Expressions of Interest for the purposes of determining the availability of any goods and services, and for the purposes of keeping a list of available pre-qualified vendors.

11. **EMERGENCY PURCHASES**

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

The CAO or Director of Corporate Services may, under these circumstances, permit a Director to circumvent the policy to effect an emergency purchase. A purchase may be made to obtain the required supplies or services regardless of the amount.

A report to Council will be made detailing the nature and cost of the emergency as soon as possible thereafter.

12. **LOCAL SUPPLIERS**

Where all else is equal a local supplier may be awarded the contract to supply goods and services for direct purchases.

If a bid from a local supplier is within 10% of the lowest bid received, the municipality may, in its discretion, award the bid to a local supplier.

13. **DISPOSAL OF SURPLUS AND OBSOLETE GOODS**

Directors shall notify the Director of Corporate Services when goods become obsolete or surplus to the requirements of their Departments.

The Director of Corporate Services shall be responsible for ascertaining if the goods can be of use to another Department within the Municipality or if the goods should be classified as waste and disposed of accordingly.

Goods that are not claimed for use by another Department may be offered for public tender, or public auction.

Items declared surplus or obsolete shall be offered for sale to the public on an "*As Is - Where Is*" basis.

No Council member or employee shall be permitted to receive surplus or obsolete goods except by purchase at public auction or by public tender.

The revenue from the sale of obsolete goods shall be credited to the appropriate account.

This By-law in no way precludes the Municipality from donating the surplus goods to a non-profit organization.

"For the purposes of this Section, where two or more bids are equal, the bid that was received earlier shall be deemed to be the higher."

BY-LAW 17-23 SCHEDULE "B"

GOODS AND SERVICES THAT ARE NOT SUBJECT TO THIS BY-LAW

1. Petty Cash.
2. Training and Education including registration for conferences, courses and seminars, magazines, books and periodicals and memberships.
3. Employee and Councillor Expenses.
4. Employer's General Expenses.
5. Professional Services including legal and auditing fees.
6. Utilities.
7. Licenses, permits and certificates.
8. Advertising.
9. Bailiff and collection agency fees.

BY-LAW 17-23 SCHEDULE "C"

BID IRREGULARITIES

Late Bid	Automatic rejection - not opened and returned to bidder
Unsealed Envelope	Automatic rejection - not opened and returned to bidder
Insufficient Financial Security i.e. a <u>Bid Bond</u> (if required)	Automatic rejection
Failure to provide a bonding company (if required)	Automatic rejection
Incomplete or illegible bid	May be rejected
Contains additions not called for	May be rejected
<u>Performance Bond</u> documentation are not original documents	May be rejected
Failure to attend <u>mandatory</u> site or information session	Automatic rejection
Bid received on documents other than those provided by the Municipality of Greenstone	Automatic rejection
Failure to include corporate seal or signature of the person authorized to bind the bidder in the space provided on the tender documents	May be rejected Director has the authority to contact the bidder and request clarification within 48 hours
Conditions placed by the bidder on the total contract price	Automatic rejection
Bid contains mathematical errors	May be rejected. Director has the authority to contact the bidder and request clarification within 48 hours
Bid contains clerical errors	May be rejected. Director has the authority to contact the bidder and request clarification within 48 hours
Bid contains erasures, overwriting or strikeouts that have not been initialed	May be rejected. Director has the authority to contact the bidder and request clarification within 48 hours