

BYLAW 37-2018
The Corporation of the Municipality of Central Huron

**Being a bylaw to update the Purchasing and Procurement
Policy and replace Bylaw 39-2014**

WHEREAS the Municipal Act, 2001 Part VI Section 270 (1) 3. and Section 270 (2) 3. states that a Municipality or local board shall adopt policies with respect to its procurement of goods and services,

AND WHEREAS the purpose of this bylaw is to provide authority and guidelines to conduct purchasing transactions to satisfy the needs of the Municipality of Central Huron;

AND WHEREAS Bylaw 39-2014 passed July 21st, 2014 established a Purchasing and Procurement Policy for the Municipality of Central Huron;

AND WHEREAS the Purchasing and Procurement Policy must be amended for the addition of Section 6.5 regarding Trade Agreements;

NOW THEREFORE be it resolved that the Council of the Municipality of Central Huron enacts as follows:


1. That Bylaw 39-2014 is hereby repealed effective May 7th, 2018 and replaced by Bylaw 37-2018;
2. That the Corporation of the Municipality of Central Huron adopts the Policy for Purchasing and Procurement dated May 7th, 2018 and attached to this Bylaw, 37-2018;
3. That this bylaw shall come into effect upon its passing.

Read a first and second time this 7th day of May, 2018.

Read a third time and finally passed this 7th day of May, 2017.



Mayor James Ginn



Clerk Brenda Maclsaac

STATEMENT OF POLICY OR PROCEDURE			
Chapter:	Finance		
Section:	Procurement Policy	Type:	FI
Subject:	Purchasing & Procurement	Effective:	May 7, 2018
Prepared by:	Director of Finance	Page:	1 to 12
Approved by:	Council	Replaces:	FI 100

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INTRODUCTION

The following is the purchasing and procurement policy for the Municipality of Central Huron and its related Boards. The policy outlines the types of purchasing processes that shall be used by the Municipality of Central Huron and explains the goals to be achieved by these processes. The policy also describes the circumstances under which each type of process shall be used.

The policy outlines the goal and purpose which describe and serve to protect the interest of the municipality and the public and those persons participating in the procurement process in order to ensure its application is fair.

Note:

In acquiring goods and services for the Municipality of Central Huron, municipal staff shall consider and have regard to disability accessibility issues as they may reasonably pertain to such acquisitions of goods and services and shall comply with the requirements of the municipality's accessibility obligations.

Where it is impractical for the Municipality to incorporate accessibility criteria and features when procuring or acquiring specific goods, services or facilities, the Department Manager will provide a written explanation, on request.

1. LEGISLATIVE AUTHORITY

- 1.1 The Municipal Act, 2001 Part VI, Section 270 (1) (3) and Section 270 (2) (3), states that a Municipality and a local board shall adopt policies with respect to its procurement of goods and services.

2. PURPOSE OF PURCHASING POLICY

- 2.1 The purpose of this policy is to set out guidelines for the Municipality to ensure that all purchases of materials, supplies, and services provide the lowest costs consistent with the required quality and service.
- 2.2 An open and honest process shall be maintained that is fair and impartial.
- 2.3 The purchasing policy will promote and maintain the integrity of the purchasing process and protect Council, vendors, and staff involved in the process by providing clear direction and accountabilities.
- 2.4 It is important to ensure that any procurement does not affect any Collective Agreement the Municipality of Central Huron has with its various unionized employees.

3. DEFINITIONS

- 3.1 For the purposes of this Policy:

“Acquisition” shall mean the process for obtaining goods and services.

“Blanket Order” shall mean the agreement wherein a vendor will sell certain items to the Municipality for an agreed period of time with established terms and conditions.

"Bid" shall mean an offer or submission received from a vendor, contractor or consultant in response to a request, tender or proposal which may be subject to acceptance or rejection.

"Bidder" shall mean the vendor, contractor or consultant who has submitted an offer or submission in response to a request, tender or proposal.

"Business Premises" shall mean a piece of land together with its building(s) considered a permanent place of business, containing personnel, material, equipment that are actually used to carry out economic activities related to that business.

"C.A.O." shall mean the Chief Administrative Officer for the Corporation of the Municipality of Central Huron.

"Clerk" shall mean the Clerk for the Corporation of the Municipality of Central Huron.

"Council" shall mean the Council of the Corporation of the Municipality of Central Huron.

"Department Manager" shall mean the individual accountable for the department and services assigned to each section thereof.

"Designate" shall mean a person authorized by the Department Manager to act on his/her behalf, for purposes of this policy.

"Emergency Purchase" shall mean a purchase made in a crisis situation where immediate action is required to prevent the possible loss of life or property, or where immediate action is required due to official orders received by either a Federal or Provincial level of government.

"Formal Quotation" shall mean a document that sets out particular requirements for goods and/or services.

"Informal Quotation" shall mean a competitive bid process for goods or services that is conveyed and received from bidders in a printed format.

"Contractor Prequalification" shall mean a prequalification process for all contractors who perform construction and maintenance tasks focusing mainly on utilities, roads and facilities.

"Professional Services" shall mean services requiring the skills of professionals for a defined service requirement or for a specific project related deliverable including, but not limited to, the areas of legal, engineering, architecture, design, planning, information technology, and financial auditing.

"Quotation" shall mean a request for prices on specified goods and/or services from selected vendors, which are submitted verbally or in writing, as required by the policy.

"Single Sourcing" shall mean the procurement of professional services from a source specifically selected amongst others, if any, due to specific reasons without competition.

"Treasurer" shall mean the Director of Finance/Treasurer for the Corporation of the Municipality of Central Huron.

4. EXEMPTIONS FROM THE PROCUREMENT POLICY

- a. The borrowing and investing of money, including debt payments
- b. The rental, lease, purchase and sale of property, land or accommodation
- c. The admission or registration for conferences, conventions, courses, workshops and seminars
- d. Memberships in professional and vocational associations and their publications
- e. Utilities including hydro, natural or propane gas, telephone, TV cable, internet services, etc.
- f. Employee wages, benefit payment and premiums, and payroll remittances
- g. Licenses, certificates, IT support contracts and other approvals require under legislation
- h. Grant and donation payments as approved in the annual municipal budget.
- i. County, Education, Fire dispatch and OPP requisitions
- j. Purchases made under the provisions of the Central Huron Emergency Plan
- k. Government tax remittances
- l. Refund of overpayments of fees and property taxes
- m. Legal fees
- n. Progress payments for construction and consulting contracts

5. ADMINISTRATION

- 5.1 No requisition, purchase, or contract shall be divided in order to avoid the requirements of this policy.
- 5.2 The Municipality of Central Huron may participate with other units of government, their agencies, or public authorities in co-operative purchase ventures when the best interest of the Municipality will be served. Where such participation is at variance with the Municipality's purchasing policy, Council shall first authorize any participation.
- 5.3 The Department Manager shall be responsible for ensuring that all goods and services purchased shall be authorized in compliance with this policy.
- 5.4 All invoices and accounts from vendors shall be approved prior to payment by signature of the Department Manager or designate denoting clerical accuracy, budgetary or specific resolution approval and indication that goods and services were received in good order- the required signature will be deemed to authorize payment.
- 5.5 No tender, proposal or quotation will be accepted from any company inclusive of its subcontractors, which has a disputed claim or instituted a legal proceeding against the Corporation or against whom the Corporation has a claim or instituted a legal proceeding with respect to any previous contract, without prior approval by Council.
- 5.6 Between the last regular Council meeting in any year and the adoption of estimates for the next year, the Treasurer is authorized to pay the accounts of any ordinary business transactions of the Municipal Corporation that are required to maintain services. This shall include the payment of accounts or previously approved capital items and projects.
- 5.7 Each department within the Municipality shall be responsible for continuously reviewing the implementation of this policy and bring to the attention of the Treasurer any matters that need to be reviewed and revised to ensure that the policy continues to be up-to-date and effective.

6. PURCHASING RESPONSIBILITIES

6.1 **Expenditure Authorization**

Unless otherwise approved by Municipal Council, all purchases of goods and services must be approved in the annual budgets. Formal approval of the budget constitutes financial approval to proceed with the procurement process.

6.2 **Department Manager Authorization and Responsibilities**

The Department Manager shall be responsible for approval of accounts within the approved budget for such division or any amendment to same as approved by Council. Unspecified capital expenditures in the annual estimates require prior Council approval by resolution.

Resolutions approving budget amendments, capital expenditures or special appropriations shall contain purpose of expenditures, cost estimates or expenditure limitation, and the fund in which an appropriation has been provided. All staff reports recommending such resolutions shall contain the Department Manager's endorsement. If required, Notice of amendment to the budget must be given in accordance with the Notice By-Law terms and the amendment approved at a public meeting.

The Department Manager shall be authorized to make purchases of goods and services up to an amount of \$10,000.00 from such vendor and upon such terms and conditions as the Department Manager deems appropriate.

6.3 **Purchasing Designate**

A Department Manager may appoint a Purchasing Designate to exercise any or all responsibilities assigned to that Department Manager by this policy.

6.4 **Contractor Prequalification**

The purpose of contractor prequalification is to ensure that the Proponents invited to bid the work are capable of delivering quality and value specific to the project requirements. Prequalification is frequently used for public projects, where the opportunity to be considered as the Proponent must be open to all, while at the same time allowing the Municipality (Owner) to manage the risks associated with the open tender process. The Municipality (Owner), through pre-determined criteria, eliminates candidates who do not demonstrate that they have the necessary financial capacity, technical expertise, managerial ability, project success, and relevant experience for the project at hand. Prequalification also has the potential to simplify the award of the contract process. The prequalification process should be completed prior to the issuance of the tender documents.

The minimum requirements for Prequalification are:

- Completion of Prequalification Questionnaire
- Submission of acceptable insurance documentation
- Submission of appropriate WSIB documentation
- Submission of Health and Safety Policy

The Prequalification Advisory Committee will be made up of Central Huron's Senior Management Team and it is their duty to investigate and examine all contractors applying for prequalification. The Committee will have the right to deny, revoke or temporarily suspend prequalification subject to the required hearing process. Any decision rendered by the Prequalification Advisory Committee may be appealed to Central Huron Council by written notice. Central Huron Council has the final authority on all decisions related to prequalification.

6.5 Trade Agreements

- a. Purchasing by the Municipality may be subject to the provisions of trade agreements.
- b. Where an applicable trade agreement supersedes and is in conflict with this By-law, the trade agreement shall take precedence.
- c. CAO and/or Department Manager shall advise the appropriate Purchasing Designate when a Purchase may not conform to an applicable trade agreement as early as possible in the Bid Solicitation process.

7. PROCUREMENT METHODS AND APPROVAL AUTHORITY

7.1 The Municipality of Central Huron uses the following methods of purchasing Good and Services:

- 1. Direct Purchases (up to \$10,000)
- 2. Informal Quotation Process (\$10,000 to \$25,000)
- 3. Formal Quotation Process (\$25,000 and up)
- 4. Request for Proposal
- 5. Request for Tender
- 6. Single Sourcing

Dollar Amount	Authorization Required	Council Process
Less than \$10,000	Any employee authorized by the Department Head	No requirement to notify Council
\$10,000 to \$25,000	Department Head or designate	Notification of quotation through formal report
Greater than \$25,000	Council	Notification of quotation through formal report

7.2 Direct Purchases (Less than \$10,000)

7.2.1 A Direct Purchase is one in the amount up to \$10,000 and Department Manager or designate shall be authorized to make direct purchases of good and services.

7.3 Informal Quotation Process (\$10,000 to \$25,000)

7.3.1 Purchases with an estimated value exceeding \$10,000 and less than \$25,000, shall be obtained using a competitive process.

7.3.2 The Department Head or designate shall be authorized to make approved purchases of goods and services subject to first obtaining at least three (3) written quotes, where practical, from those vendors able to supply the goods or services in a responsible and responsive manner.

7.3.3 This method does not require formal advertising or receipt of sealed bids.

7.4 Formal Quotation Process (\$25,000 and up)

7.4.1 Purchases with an estimated value exceeding \$25,000 shall be obtained using a competitive process.

7.4.2 The Department Head or designate shall be authorized to make approved purchases of goods and services subject to first obtaining at least three (3) written quotes, where

practical, from those vendors able to supply the goods or services in a responsible and responsive manner.

7.4.3 The requisitioning department shall prepare a quotation document which provides prospective bidders with clear instruction, specifications, terms and conditions.

7.4.4 Requests for quotes may be sent directly to prospective vendors, unless otherwise directed by council.

7.5 Requests for Proposal

7.5.1 Request for Proposal process is used when the goods/services are of a highly specialized or flexible nature. In general, the Request for Proposal's process encourages different solutions from vendors, consultants, engineers, and legal and actively searches for better and more creative ideas for supply of goods or services. It provides a process whereby the negotiation and its reward are based on demonstrated competence, qualifications, and the technical merits of the proposal at a fair price.

7.5.2 Requests for proposals may be issued by invitation or by public advertisement in local newspaper, website, or other approved manner.

7.5.3 Requests for proposals will contain at least the following:

- a. A definition of the problem, or define the requirement or objective sought;
- b. Time frame in which resolution is anticipated;
- c. Deadline for submissions;
- d. When appropriate, Municipal resources that will be used to assist in achieving resolution;
- e. Name of Department Manager and method for collection of additional information pertinent to the request for proposal;
- f. Request for a list of references from similar projects;
- g. Request for itemized breakdown of costs to meet solution proposed.

7.5.4 Proposal submissions will be evaluated by the Department Manager, in consultation with the CAO, and Director of Finance, or designate based on the effectiveness, value, price of the proposed solution and the bidder's ability to deliver the proposed solution in the time frames established.

7.5.5 The Department Manager will prepare a written report forwarded through the C.A.O. to Council for approval. If the lowest bid is not recommended for acceptance the report must clearly state the reasons why.

7.6 Requests for Tender

7.6.1 The tendering process shall be used where all of the following criteria apply:

- Two or more sources are considered capable of supplying the requirements
- The requirements are adequately defined as to permit the evaluation of tenders against clearly stated criteria
- The market conditions are such that tenders can be submitted on a common pricing basis

7.6.2 The tender process follows general procedures set out below:

- Development of specifications and contract terms
- Publication and solicitation of tenders

- Receiving and opening of bids
- Bid evaluation and selection

7.6.3 In all cases, tenders shall be coordinated by the initiating department and any other affected department. The specifications contained within the tender documents are the responsibility of the initiating department.

7.6.4 The Department Manager will ensure:

- a. completeness of documentation
- b. advertisements are arranged
- c. closing dates and tender opening are scheduled
- d. vendor contact for information is appropriate

7.6.5 Tender documents will contain at least the following:

- a. A cover sheet with the name of the tender, the closing date and time, and issuer or contact person within the issuing department.
- b. Information to bidders. This contains non-technical information that advises the bidders of the general terms and conditions that apply to the tender of goods and/or services.
- c. Performance Guarantee/Financial Guarantee to ensure proper execution of the work, a performance guarantee in the form of certified cheque, irrevocable letter of credit, or bond (performance, labour, and/or materials) may be required. All requirements must be clearly outlined in the information to bidders.
- d. Specifications: The specifications section will provide details to describe accurately and precisely the nature, scope and extent of the goods and/or services required.
- e. Form of Tender: The Tender Form when properly completed and signed is a legal offer by the bidder to carry out the tendered work. The Tender Form should include an acknowledgement from the bidder that he has reviewed and understands all of the tender documents. Proper and clear identification of the bidder as well as clear bid prices must appear on the completed Tender Form.
- f. Bid deposit: The amount and form of deposit as specified in the tender document.
- g. Insurance requirements as specified in the tender document.
- h. WSIB Certificate of Clearance.
- i. List of Subcontractors
- j. Completion date and requirement for a construction schedule.

7.6.6 **Disclosure**

Prior to the time and date of tender closing, information may be disclosed regarding the names of plan/tender package takers. After the tender closing, information may be disclosed regarding the number of bids received, names of the bidders and the amounts of the bids, as received.

7.6.7 **Submission Requirements**

All tenders unless otherwise specified, shall be submitted in a sealed envelope clearly marked "Tender," name of the tender, and shall be addressed to and received at;

The Corporation of the Municipality of Central Huron
 Municipal Clerk
 Municipal Administration Office
 PO Box 400, 23 Albert St.
 Clinton, Ontario
 NOM 1L0

When a tender is received, the sealed envelope shall be marked with the time and date of receipt and be initialed by the person receiving the tender. Receipt of tender shall be recorded on a list of tenders received and tenders shall be placed unopened in a secure area until after closing time.

7.6.8 Tender Opening

Tenders will be opened at the appointed time in the presence of any member of the public in attendance for the opening, the Department Manager or designate, the CAO or designate and Municipal Clerk or designate and/or the Treasurer or designate.

7.6.9 Bid Analysis

Bid submissions shall be analyzed by the initiating Department Manager, and the engineer and/or architect involved if applicable, and any other staff as required and a recommendation made.

The bids will be checked by the Department Manager as soon as possible following the tender opening to ensure that all the required documentation such as tender deposit, insurance certificates and agreement to bond are in place and that the bid is mathematically correct.

Tenders which do not conform to the tender requirements or which require mathematical corrections shall be deemed "Improper Bids" and shall be so noted on the evaluation form. The appropriate Department Manager shall then decide on the acceptance or rejection of all tenders noted as improper as defined in the tender document.

7.6.10 Bids with Equal Total Prices

If two low bids are found to be equal in price, quality and service, the successful bidder shall be determined by the bidder whose business premises shall have the nearest geographical proximity to the point of delivery of goods and services. For the purposes of the foregoing, "business premises" shall be from which the goods and services shall be supplied.

7.6.11 Automatic Rejection of Tender

Tenders shall not be accepted where:

1. Tender is received after the official closing date and time stated in the tender advertisement.
2. Tender is not properly executed by an authorized representative of the company submitting the tender.
3. Tender does not include all of the required documentation as stated in the tender document.
4. Tender is not completed in a non-erasable medium.
5. Tender is not accompanied by the specified tender security (ie. Bid bond or certified cheque).
6. Tender is received by any other means than specified in the tender documents.

If a tender is disqualified for any of the above reasons, the tender will be returned by mail accompanied by a letter signed by the Department Manager, or designate, stating the tender is disqualified and the reason for the disqualification.

If a late tender is received without a return address on the envelope, it shall be opened after the tender opening to determine the return address only, address obtained and then returned along with a letter from the Department Manager stating reason for disqualification and why the envelope could not be returned unopened.

7.6.12 Bid Withdrawal

Request for withdrawal of a quotation or unopened tender shall be allowed if the request is made in writing before the closing time. Requests must be directed to the Clerk (or designate) or issuing Department Manager with a signed withdrawal confirming the details. Telephone requests shall not be accepted. The withdrawal of a tender does not disqualify a bidder from submitting another tender on the same contract.

7.6.13 Recommendation to Award

A written report will be forwarded through the C.A.O. to Council for approval. If the lowest bid is not being recommended for acceptance the report must clearly state the reasons why.

7.6.14 Award

When the tender has been awarded the Department Manager will notify all bidders of the decision. The successful bidder will be notified in writing.

7.6.15 Disposition of Deposit Cheques

Following the recommendation to award the contract to a specific bidder, bid deposits of all bidders other than the two lowest bidders, shall be returned to the applicable bidders. The bid deposit cheques of the successful bidder and the second lowest bidder shall be held until the contract is executed as per the Deposit and Bond – Receipt and Release Procedure, Section 3.

7.7 Single Sourcing (up to \$25,000)

7.7.1 Council may approve the purchase of professional services such as Consultants, Engineers, Architects, Legal, Trainers, and similar types of services through single sourcing based on written recommendation from the Department Manager, providing justification that no useful purpose or financial advantage to the Municipality would be achieved through the competitive process, as defined in this bylaw.

7.7.2 The written recommendation shall include a statement that the professional services are available either from only one source, or the circumstances indicate only one source, and, are of a standard model and price, or the Municipality's requirements in this instance are unique and it is in the best interest of the Municipality to single source.

8. ACCESSIBILITY REQUIREMENTS

Accessibility criteria and features shall be incorporated when procuring goods, services, and/or facilities in accordance with the Accessibility of Ontarians with Disabilities Act, 2005 (AODA) where practical. Where it is not practical to incorporate accessibility, an explanation shall be provided if requested.

9. EMERGENCY PURCHASES

9.1 Where a situation arises requiring immediate procurement of goods or services essential to prevent serious delays in the work of any department or which might involve danger to life, health or safety of employees or the public, or to prevent damage to property, or where immediate action is required due to official orders received by either a Federal or Provincial level of government, a Department Manager may purchase the required goods or services notwithstanding any other provision in this policy. The C.A.O. or designate must be informed of this situation and will authorize the expenditure.

9.2 For emergency purchases exceeding \$25,000, inclusive of all taxes, the Department Manager shall forward, after the fact, a report to the Council as soon as reasonably possible with a notation that this was an emergency purchase.

10. BLANKET ORDERS

10.1 The Department Manager may establish Blanket Orders using the applicable procurement mechanism based upon the estimated annual expenditure. Blanket Orders may also be coordinated and issued by General Administration for all Municipality departments as applicable.

10.2 In the case of equipment repairs and equipment rentals for amounts not exceeding \$10,000.00 the Department Manager shall be authorized to select vendors not solely on the basis of cost, but also on ability, quality or workmanship, service, availability, overall performance and experience without first obtaining quotations.

10.3 Blanket Orders shall be issued for a specific time period with all ordering departments responsible for maintain purchases within budget allocations.

11. CONFLICT OF INTEREST

11.1 No member of Council or employee of the Municipality shall have any pecuniary interest either direct or indirect in any contract, tender, proposal or quotation for the supply of goods or services to the Municipality, unless such pecuniary interest is disclosed.

A contract for goods and/or services placed with a relative of an employee of the Municipality shall be declared and that employee shall not be placed in a position to supervise or approve the execution of that contract.

11.2 No employee or elected official shall purchase Municipal assets except by bidding on the same at public auction or by sealed bid.

11.3 No person shall provide consulting services or professional services to both the Corporation and a private firm on the same or related project.

12. LOCAL PREFERENCE

12.1 In accordance with the *Discriminatory Business Practices Act, RSO, 1990*, Chapter D. 12, as amended, there will be no local preferences for purchases except as set out below:

- a. Where there are two responses to a solicitation for goods and services which after evaluation appear equal in all respects, a local preference may be shown for the sole purpose of breaking the tie. In such circumstances, the "local" vendor shall be deemed

to be the vendor whose business premises shall have the nearest geographical proximity to the point of delivery of the goods and services. For the purposes of the foregoing, "business premises" shall be from which the goods and services shall be supplied.

- b. Despite (a) above, a local preference may be shown when the intrinsic nature of the acquisition necessitates a local preference, such as solicitation by the Municipality for Municipal Office space.

13. AWARD CONSIDERATION AND CONTRACT ADMINISTRATION

13.1 In addition to price, consideration may be given to the following in determining the lowest responsible bidder:

- a. The ability, capacity and skill of the bidder to provide the goods or services requested.
- b. The ability of the bidder to perform the contract or provide the services promptly or at the time specified without delay or interference.
- c. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- d. The quality and performance of previous contracts, goods or services.
- e. The sufficiency of financial resources and ability of the bidder to perform the contract or provide the goods or service.
- f. The quality, availability and adaptability of the goods or contractual services to the particular use required.
- g. The ability of the bidder to provide future maintenance and services for the items required.
- h. The number and scope of conditions attached to the bid.

13.2 It shall be the responsibility of the Department Manager to enforce the contract terms, conditions and specifications and to ensure that the contractor is informed that they are expected to follow the standards, spirit and ethics of the Municipality.

14. ADVERTISING

Bids shall be advertised on the Corporation's website, in local newspapers, applicable publications and where effective in the opinion of the CAO, Director of Finance or Department Manager or where necessary to comply with all existing statutory regulations and in accordance with the Municipality's Notice By-Law.

15. RETENTION OF DOCUMENTATION

All background information, information submitted by vendors, purchase orders and other relevant information involved in obtaining prices for goods and services exceeding \$10,000.00 shall be retained in accordance with the Municipality's Records Management Policies and Procedures.

16. PURCHASING PROCEDURES

Purchasing procedures as determined by the Director of Finance are to be used as a guideline and for information on purchasing goods and services in compliance with this policy.