

THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE

BY-LAW NO. 46-2021

Being a By-law to adopt a policy to govern the purchasing of goods and services by the Corporation of the Municipality of Thames Centre and to repeal By-law No. 79-2014.

WHEREAS Section 5(3) of the Municipal Act, 2001, c. 25, as amended, provides that the powers of The Corporation of The Municipality of Thames Centre, shall be exercised by by-law;

AND WHEREAS Section 270(1)(3) of the Municipal Act, 2001, c. 25, as amended, requires all municipalities to adopt and maintain a policy with respect to the procurement of goods and services;

AND WHEREAS the Canadian Free Trade Agreement, the Comprehensive Economic and Trade Agreement, the Ontario-Quebec Trade and Cooperation Agreement, the Comprehensive and Progressive Agreement for Trans Pacific Partnership and the United States-Mexico-Canada Agreement include provisions that may apply to the procurement of goods and services by the Municipality of Thames Centre;

AND WHEREAS the Council of the Municipality of Thames Centre has deemed it desirable to set out its policies with respect to the procurement of goods and services;

AND WHEREAS the Municipality of Thames Centre enacted By-law 79-2014 on November 24, 2014 to adopt a policy to govern the purchasing of goods and services;

NOW THEREFORE the Council of The Corporation of the Municipality of Thames Centre **HEREBY ENACTS AS FOLLOWS:**

1. **THAT** the Mayor and Members of Council of the Municipality of Thames Centre hereby adopts the Procurement of Goods and Services Policy of the Municipality of Thames Centre, Policy No. CP-I-1.4 attached hereto and marked as Schedule "A".
2. **THAT** the Director of Financial Services/Treasurer is hereby authorized to make amendments to the said Procurement of Goods and Services Policy of the Municipality of Thames Centre without the need of Council confirming or debating such amendments provided that such amendments are of a minor or technical nature and do not contravene the general intent and purpose of the Purchasing Policy.
3. **THAT** By-law No. 79-2014 is hereby repealed.
4. **THAT** this By-law shall come into force and take effect upon the final passing thereof.

READ a FIRST and SECOND time this 14th day of June, 2021.

READ a THIRD time and **FINALLY PASSED** this 14th day of June, 2021.

Signed by Mayor

Mayor, A. Warwick

Signed by Clerk

Clerk, T. Michiels



Policy: Procurement of Goods and Services Policy

Policy Number: CP-I-1.4

Effective Date: June 14, 2021

Revised Date: June 14, 2021, repeals By-law No. 79-2014 dated November 24, 2014

PURPOSE:

Section 270 (1) of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended, provides that a municipality and a local board shall adopt policies with respect to its procurement of goods and services.

The purposes, goals and objectives of this policy are to:

- Establish the type of procurement processes that shall be used and the circumstances under which each type shall be used;
- Promote procurement activities and decisions that are in compliance with applicable legislation and trade agreements and that are consistent with the strategic objectives of the Municipality;
- Promote procurement in a manner that has regard for sustainability and quality in the acquisition of goods and/or services, including consideration of the lifecycle costs and environmental impacts;
- Promote the most effective use of Municipal funds through procurement methods, disposal and decisions that achieve the best value for money when taking the needs of the Municipality into consideration and may include, but not be limited to, the determination of the total costs of performing the entire function over the lifetime of the task, acquisition cost, installation, disposal value, disposal cost, training costs, maintenance cost, quality of performance, and environmental impact;
- To maintain trust and confidence in the stewardship of public funds through objective, fair, transparent and efficient procurement processes;
- To avoid real and perceived conflicts between the interests of the Municipality and those of the Municipality's employees and elected officials, and to ensure compliance with the *Municipal Conflict of Interest Act, R.S.O. 1990*, as amended;

- Promote procurement that have regard for the accessibility of persons with disabilities;

The purchasing principles and key goals of this procurement policy are:

- Transparency: This policy shall be made readily available to the public. Procurement will encourage an open and competitive bidding process for the acquisition and disposal of goods and/or services with objective and equitable treatment of vendors.
- Accessibility: Accessibility criteria and features shall be incorporated when procuring goods, services and/or facilities in accordance with the *Accessibility for Ontarians with Disabilities Act, (AODA)*, where practicable and feasible. Where it is deemed not practicable to incorporate accessibility, an explanation shall be provided upon request.
- Accountability: Procurement decisions will be clear and disclosed given the obligation to answer to the public, Council, and vendors for the procurement results. No member of staff or Council may receive a personal benefit from any contract for supplies and/or services or benefit from the very nature of their employment with the Municipality or from their role on Council.
- Co-operative Purchasing: The Municipality will endeavor to participate in co-operative purchasing between other agencies to create economies of scale.
- Sustainability and Ethical Procurement: The Municipality supports the acquisition of goods, services and construction from Vendors who conduct their business in a sustainable and ethical manner. The Municipality acknowledges its responsibility to conduct its Procurement in a socially and environmentally responsible manner. This includes zero-tolerance of child labour or involuntary labour. Vendors are required to adhere to the core international labour standards of the International Labour Organization that support the Universal Declaration of Human Rights. The Municipality encourages the Procurement of goods, services and construction with due regard to protect natural ecosystems and resources, and the human and built communities. Vendors may be required to supply goods, services and construction made by methods resulting in the least amount of damage to the environment, and/or supply goods, services and construction incorporating recycled materials where practical as specified in the procurement document.

POLICY:

1 **Definitions**

- a) Accessibility means a general term used to describe the degree of ease that something (e.g., device, service and environment) can be used and enjoyed by persons with a disability. The term implies conscious planning, design and/or effort to ensure it is barrier-free to persons with a disability, and by extension, highly usable and practical for the general population as well;
- b) Acquisition means any form of procurement, purchase, lease or rental of goods and/or services;
- c) Applicable Law means any and all requirements under or prescribed by the common law, and any and all applicable international laws, federal, provincial, regional, local or municipal laws, trade agreements, statutes, codes, acts, permits, licenses, orders, by-laws, rules, policies, regulations and, that may now, or at any time hereafter be applicable, including without limitation, *the Freedom of Information and Protection of Privacy Act, Municipal Freedom of Information and Protection of Privacy Act, Occupational Health and Safety Act, Workplace Safety and Insurance Act, Environmental Protection Act, Municipal Act, Accessibility for Ontarians with Disabilities Act, and the Discriminatory Business Practices Act*;
- d) Authority or Authorized means the right to conduct the subject task as directed by Council either through resolution or through the approval of the annual departmental budget (budget process and adoption);
- e) Authorized in relation to a person, means authorized by this policy to act on behalf of the Municipality to: (i) initiate bid requests and other forms of procurement activities; (ii) govern the conduct of a bid request; and (iii) make an award;
- f) Award means the approval given by the authorized person to enter into a contract/agreement and occurs when a submission is formally accepted by the Municipality, either by Council or by delegated authority as permitted by this policy;
- g) Best Overall Value means the value after consideration of all factors and evaluation criteria as disclosed in the bid request, not limited to the lowest dollar price;
- h) Bid means any tender, quotation, offer or other form of submission made by a prospective vendor in response to a bid request that is subject to acceptance or rejection by the Municipality;

- i) Bid Document or Bid Documents means any document issued by the Municipality pursuant to this policy and used in connection with a procurement process;
- j) Bid Deposit means a financial guarantee to ensure the successful bidder will enter into an agreement.
- k) Bid Request means a written request or other formal request by the Municipality in connection with the provision of goods and services including but not limited to an Informal Quotation, Request for Quotation, Request for Pre-Qualification, Request for Tender, Request for Proposal, Request for Expression of Interest, Calls for Tenders, or other form of acquisition to the purchasing designate pursuant to this policy;
- l) CETA means the Comprehensive Economic and Trade Agreement, Chapter Nineteen, Government Procurement, as may be updated and amended from time to time;
- m) CFTA means the Canadian Free Trade Agreement, as may be updated and amended from time to time;
- n) Chief Administrative Officer or CAO means the Chief Administrative Officer for the Municipality or any person authorized to temporarily act as his/her designate;
- o) Clerk means the Clerk of the Municipality or any person authorized to temporarily act as his/her designate;
- p) Closing Time means the place, date and time set by the bid documents for receipt of responses.
- q) Compliant Bid means a bid that meets the terms and conditions of the bid request and this policy;
- r) Conflict of Interest means:
 - (i) situation or circumstance, real or perceived, which could give a supplier an unfair advantage during a procurement process or compromise the ability of the supplier to perform its obligations under its contract; and/or
 - (ii) situation where a personal, business or other interest of an elected or appointed official, officer or employee of the Municipality is, or can be reasonably perceived to be, in conflict with the interest of the Municipality, and includes but is not limited to:
 - (iii) the giving or receiving of direct or indirect personal gain or benefit, or a direct

or indirect advantage or privilege, by any person or business that offers goods and/or services to the corporation;

- (iv) direct or indirect interest in any business that provides goods and/or services to the Municipality;
- (v) a conflict of interest as defined in the Municipality's Code of Conduct as may be amended from time to time;
- s) Consultant means a person or firm, who by virtue of a particular expertise, is hired by the Municipality to undertake a specific task or assignment that may include designing specifications and preparing plans or programs;
- t) Contract means the acceptance of the Municipality of a bid in the form of a duly signed agreement or purchase requisition between a chosen bidder and the Municipality for the provision of goods and/or services;
- u) Controlling Interest means any person with an interest in a business as defined and applied by the Income Tax Act (Canada);
- v) Council means the Council of the Municipality;
- w) CPTPP means the Comprehensive and Progressive Agreement for Trans Pacific Partnership, as may be updated and amended from time to time;
- x) Department means any department or division of the Municipality;
- y) Department Head means the head of a department operating within the Municipality of Thames Centre and shall include the Chief Administrative Officer, Clerk, Directors, or Fire Chief or his/her designate;
- z) Director of Financial Services/Treasurer means the Director of Financial Services/Treasurer for the Municipality or his/her designate;
- aa) Disability or Disabilities shall have the same meaning as that in the *Accessibility for Ontarians with Disabilities Act, 2001*, S.O. 2001, c.11;
- bb) Electronic Bidding or E-Bidding means a computer based system that provides suppliers with access to information related to open competitive procurements;
- cc) Emergency means an urgent situation, as determined by the Mayor, CAO or Department Head, where the immediate purchase of goods and services is essential to comply with any applicable law or lawful order; or to prevent delays in the work of any department that is a result of danger to life or damage to property, or threat or risk to public health and safety;
- dd) Employee means an employee of the Municipality;

- ee) Evaluation Criteria or Performance Evaluation Criteria means the rated criteria as set out in a notice of intended procurement or solicitation, which may include but is not limited to supplier qualifications, price and other cost or value factors, quality, technical merit, environmental characteristics, and negotiable commercial terms of delivery;
- ff) Goods and Services means, in relation to procurement, all supplies, materials, equipment, moveable property, vehicles and other personal property required for the operations or activities, including construction activities, of the Municipality, but does not include those goods listed in Appendix "B" of this policy;
- gg) Limited Source (previously known as single or sole source) means there is limited source of supply of a particular good or service from one or more than one vendor based on the conditions set out in Section 4 of this policy and includes direct negotiations as a procurement process where there is no competitive process;
- hh) Litigation means a situation where a person, corporation or business has commenced an application, action or other legal proceeding against the Municipality or the Municipality has commenced an action, application or other legal proceeding against a person, corporation or business;
- ii) Manager shall mean a head of a department operating within the Municipality of Thames Centre, including the Chief Building Official/By-law Enforcement Officer, Drainage Superintendent, Recreation Manager, Superintendent of Transportation, Environmental Services Superintendent, and Senior Centre Program Coordinator;
- jj) Mayor means the head of Council or his/her designate;
- kk) Municipality means the Corporation of the Municipality of Thames Centre;
- ll) OQTCA means the Ontario-Quebec Trade and Cooperation Agreement, as may be updated and amended from time to time;
- mm) Pending Litigation occurs where a claim, application or other legal proceeding that includes a threat of legal proceedings, or a demand for compensation, that has been made in writing by either a person, corporation, business or the Municipality against the other, but no formal proceedings have been commenced;
- nn) Person includes individuals, corporations, partnerships, firms and trusts and may include Council;

- oo) Policy refers to the Municipality of Thames Centre Procurement of Goods and Services Policy;
- pp) Procurement means a goods, services or construction contract involving a purchasing, leasing, renting or exchange transaction, arrived at by a competitive or non-competitive process. Procurement also includes material(s) management, contract management, advisor services and implementation and adherence to best practices;
- qq) Procurement Officer means the Legislative/Communications/Procurement Officer of the Municipality or any person who has been authorized to temporarily act as the Procurement Officer during an absence or vacancy in the office;
- rr) Procurement Procedures means all methods of competitive and non-competitive procurement;
- ss) Purchase means the acquisition of goods and/or services by or on behalf of the Municipality by way of purchase, lease or rental and “procure” shall have a similar meaning;
- tt) Purchasing Designate means the employee or contracted agent responsible for a procurement initiative, including the CAO, Directors, Clerk, Fire Chief, Superintendents, Managers, Coordinators, Officers or any employee as designated by the CAO, a Director, the Clerk or the Fire Chief of the Municipality;
- uu) Quotation means a binding offer to supply certain specified goods and services at a specific rate, price, terms of sale, and description of goods and/or services in response to the information contained in a call for quotations;
- vv) Request for Expressions of Interest or RFEOI means general market research to determine vendor interest in a proposed procurement, used prior to issuing a call for bids or proposals and not intended to result in the award of a contract. All RFEOI shall be approved in advance by the CAO;
- ww) Request for Pre-Qualification or RFPQ is a procurement process used to prequalify potential suppliers in which factors such as financial capability, experience, and reputation are considered in order to develop a list of qualified suppliers for subsequent participation in an invitational bid opportunity;
- xx) Request for Proposal or RFP means a competitive procurement process for obtaining unique proposals designed to meet broad outcomes to a complex problem or need for which there is no clear or single solution;
- yy) Request for Quotation or RFQ means a competitive procurement process for obtaining quotations by the Municipality for the provision of goods and/or

services made in accordance with the provisions of this by-law;

zz) Request for Tender or RFT means a competitive procurement process for obtaining competitive bids based on precisely defined requirements for which a clear or single solution exists;

aaa) Requisition includes both any document, whether electronic or printed, prescribed for use in initiating the purchase of required goods and services and the activity of initiating the purchase of required goods and services;

bbb) Services includes all professional, consulting or training services, services associated with the acquisition of goods, services associated with the construction, demolition, maintenance, repair or upkeep of any buildings, premises or goods, the rental of any real property, intangible products not having a physical presence or any other service required by and for the Municipality, but does not include those services as listed in Appendix "B" of this policy;

ccc) USMCA means the United States-Mexico-Canada Agreement, as may be updated and amended from time to time;

ddd) Vendor means any person supplying goods and/or services to the Municipality in accordance with the terms of a contract and "contractor" and "supplier" shall have similar meanings.

2 Application, Scope and Roles

2.1 All persons who act on behalf of the Municipality in the issuance of a bid request, the conduct of a bid request, and the making of an award, are responsible to comply with this policy.

2.2 All acquisitions of goods and services by the Municipality and local board, and all purchasing inquiries of the Municipality regarding materials, prices, services, delivery, terms, conditions and adjustments shall be conducted through the appropriate department, in accordance with the provisions of this policy, unless otherwise permitted herein.

2.3 Council has the ultimate authority for all expenditures. Council delegates this authority by the authorization of budgets or by specific resolution. Levels of contract approval authority are summarized in Appendix "A". Budget approvals by Council of capital works and operating expenditures shall constitute authorization for any purchases of goods and services necessary to carry out work within the approved cost of an approved capital, approved costs of one-time projects in a department, approved operating budget of a department, provided such purchases are made in accordance with this policy.

2.4 The Procurement Officer shall ensure that all procurement documents are approved as to the prescribed format.

2.5 The Municipality shall segregate at least three of the eight functional procurement roles: Requisition, Budgeting, Application, Commitment, Receipt, Approval, Payment and Records Management. Responsibilities for these roles shall be with different departments wherever possible, or, at a minimum, with different individuals. Segregation of duties prevents any one person from controlling the entire procurement process.

| Functional Role | Responsibility | Accountable Party |
|--------------------|--|--|
| Requisition | Authorize the related department to place an order | Employee requesting the product or service |
| Budgeting | Authorize that funding is available to cover the cost | Council |
| Application | Ensure utilization of standardized procurement documents | Procurement Officer |
| Commitment | Authorize release of the order to the supplier under agreed contract terms | Purchasing Designate |
| Receipt | Authorize that the order was physically received | Individual receiving the goods and services |
| Approval | Authorize release of payment to the supplier | Individual authorized to approve invoice as summarized in Appendix "A" |
| Payment | Release of payment to the supplier | Accounts Payable/Financial Analyst or designate |
| Records Management | Electronically file procurement documents in accordance with the Corporate Records management Policy and Retention By-law. | Procurement Officer |

3 *Methods of Procurement*

3.1 Competitive Procurement

Types of Competitive Procurement:

Open Competitive Procurement: Open competitive procurement is the contractual acquisition (purchase or lease) by the Municipality of any goods and services that enables all suppliers to compete in a fair, transparent and open environment. Open competitive procurement ensures the highest level of fairness, impartiality, and transparency; it maximizes suitability and the value for money of the obtained goods and services.

Invitational Competitive Procurement: Invitational competitive procurement is the contractual acquisition (purchase or lease) by the Municipality of any good or service

that enables suppliers to compete in a fair and open environment. The Municipality conducts invitational competitive procurement by inviting three or more qualified suppliers to submit written proposals to supply goods and services as specified by the Municipality through a bid request.

To conduct a competitive procurement process, the Municipality must develop competitive procurement documents to be provided to potential proponents. The three major types of competitive procurement documents, Requests for Proposal (RFP), Requests for Quotation (RFQ), and Requests for Tender (RFT), are described below:

a. Request for Proposal (RFP)

The purpose of an RFP is to request suppliers to provide innovative solutions for the delivery of more complex goods and services, or, where explicitly required, to provide alternative options or solutions.

Bidders are invited to submit sealed bids manual or electronic in accordance with the bid request.

This process uses multiple predetermined evaluation criteria, including price.

When the purchasing designate has determined that the requirements for goods and services cannot be sufficiently defined or specified, an RFP is required.

Terms and conditions for the RFP will be established along with evaluation criteria that will be utilized in the bid request.

The Municipality, in its sole and absolute discretion may use an RFP at any time for any dollar value and for goods and services for estimated expenditures greater than \$100,000, the Department Head shall be authorized to issue an RFP.

The Procurement Officer will act as a facilitator.

A committee of no less than three (3) evaluators will be formed to evaluate proposals in accordance with the terms and conditions and established criteria as set out in the bid request.

Scores will be tabulated and awarded to the bid that best meets the requirements of the Municipality and the purpose and intent of this policy.

A Request for Information or a Request for Expression of Interest may be issued in advance of an RFP to assist in the development of a more definitive set of terms and conditions, scope of work/service and/or the selection of qualified suppliers.

For the purposes of this policy, a proposal will be considered compliant upon opening the bid providing the terms and conditions of the bid request have been met.

If the compliant bid is over \$100,000 and exceeds the approved budget appropriation by the lessor of \$50,000 or 20% of the approved budgeted amount, the Department Head shall submit a report to Council for direction.

If less than two (2) bids are received, the Department Head shall submit a report to Council for direction.

The Department Head shall be responsible to review the competitive bid and verify that all terms, conditions and specifications of the bid are met.

The Municipality reserves the right in its sole discretion to accept or reject any bid.

b. Request for Quotation (RFQ)

An RFQ is a document similar to an RFT. In an RFQ, the Municipality describes exactly the goods and services to be provided; the proposal evaluation is based on the lowest compliant bid that meets all terms.

Bidders are invited to submit sealed bids manual or electronic in accordance with the bid request.

Where a request for quotation is required, employees may obtain quotes informally and/or formally. However, at all times employees shall endeavor to obtain formal quotes wherever possible. The Municipality shall:

- i. For goods and services for estimated exceeding \$35,000, the purchasing designate shall obtain a minimum of three (3) quotes where reasonably possible for the goods and services. In the event three (3) quotes are not received, and the value of the quote exceeds \$35,000, the Department Head may decide at his/her own discretion to formally issue a tender.
- ii. Notwithstanding subsection (i) above, any quote that exceeds \$35,000 and was issued by the Municipality formally shall be considered in accordance with this policy.

The Department Head shall be responsible to review the competitive bid and verify that all terms, conditions and specifications of the bid are met.

The Municipality reserves the right in its sole discretion to accept or reject any bid.

c. Request for Tender (RFT)

The purpose of an RFT is to request suppliers to submit bids to provide goods and services based on stated delivery requirements, performance specifications, terms and conditions. Bidders are invited to submit sealed bids manual or electronic in

accordance with the bid request. An RFT focuses the evaluation criteria predominantly on the price and delivery requirements, although not necessarily the lowest price. Once a bidder is selected, a contract shall be entered into without negotiation.

For goods and services for estimated expenditures greater than \$100,000, the purchasing designate shall be authorized to issue a RFT.

The Procurement Officer will act as a facilitator.

The Department Head shall be responsible to review the competitive bid and verify that all terms, conditions and specifications of the bid are met.

If the compliant bid is over \$100,000 and exceeds the approved budget appropriation by the lessor of \$50,000 or 20% of the approved budgeted amount, the Department Head shall submit a report to Council for direction.

If less than two (2) bids are received, the Department Head shall submit a report to Council for direction.

The Municipality reserves the right in its sole discretion to accept or reject any bid.

3.2 Competitive Procurement Thresholds

The Municipality shall not reduce the overall value of procurement (e.g., dividing a single procurement into multiple procurements) in order to circumvent competitive procurement thresholds.

3.3 Communications during Competitive Process

The competitive process begins when the issuance of the bid request (start date) and ends when the Municipality signs an agreement or contract with a supplier (end date). Throughout the competitive procurement process, all communications with suppliers involved in the process must occur formally through the contact person identified in the competitive documents, in either of the two following methods:

a. Addenda

Addenda are prepared in cases where the posted competitive procurement documents need to be modified (e.g., amending, adding or deleting information due to errors, conflicts or omissions). Any addenda shall be posted at least three (3) business days before the closing date. If an addendum is issued within two (2) business days of the closing date, the bid submission date shall be extended accordingly. An addendum allows for modification in the bids including but not limited to inserting new or omitted provisions or drawings; and/or revising or deleting provisions or drawings.

All addenda must be available to all bidders, and shall be posted in the same manner the original competitive procurement document was posted, for example on an electronic bidding system.

In the case of e-bidding systems:

- i. Bidders may be required to acknowledge receipt of any addenda.
- ii. It is the responsibility of the bidder to have received all addendums that are issued. Bidders are responsible to check the e-bidding system prior to submitting their bid and up until bid closing time and date in the event additional addenda are issued. Bids may be automatically withdrawn from the e-bidding system if addenda are not acknowledged.
- iii. The bidder is solely responsible to make any required adjustments to their bid in light of the addenda; acknowledge the addenda; and; ensure their re-submitted bid is received by the bidding system no later than the stated bid closing time and date.

b. Question and Answer (Q&A)

Addenda and Q&A must be posted in the same manner as the bid request and made available to all proponents. Communications outside of this process will not be entertained or responded to by the Municipality.

c. Inquiries

Employees, Elected Officials and Appointed Officials who receive inquiries from Bidder(s) related to any specific Procurement are required to advise the Bidder(s) to communicate with the contact person listed in the competitive documents.

d. Bid Solicitation

A bid solicitation may provide for the disqualification of any Vendor for failure to limit communication to the official point of contact.

3.4 Exceptions from Competitive Procurements

Where there is provision under trade agreements that exempts the procurement from the requirement for a competitive procurement process, the Municipality may rely on such an exemption as the basis for conducting a non-competitive procurement. A purchasing designate asserting that procurement is subject to an exception clause under a trade agreement must formally set out the clause being relied upon, rationale for relying on this clause, applicability of the particular clause and providing written supporting documentation to the Director of Financial Services/Treasurer.

3.5 Alternative Procurement

The Municipality shall endeavor to use competitive procurement processes to achieve the goals of this procurement of goods and services policy. However, the Municipality has recognized that from time to time there are special and/or unique circumstances may exist that require the Municipality to use a non-competitive procurement process. The Municipality may use an alternative procurement process under the circumstances as set out in this policy. The Municipality may use procurement strategies that are not listed above, provided these strategies do not contradict the intentions and requirements of this policy. When adopting an alternative procurement strategy, the Municipality must consult with the Chief Administrative Officer and if necessary, legal counsel to ensure compliance with the policy and the law.

3.6 Informal Quote Process

The informal quote process shall apply to the acquisition of all goods and services by the Municipality unless otherwise permitted in this policy or any other policy of the Municipality. Procurement dollar value thresholds, approved authority, method of procurement and reporting requirements have been established and are set out in Appendix "A".

Acquisitions as presented in this section and Appendix "A" shall be considered to be the minimum standard and will become more formal and complex as the requirements and/or estimated value of the goods and services increase. At all times, the department head, in his/her sole and absolute discretion, may choose to use a more formal method of acquisition than the informal quote process set out in this policy.

Procurements up to \$35,000 shall be considered low dollar value procurements. For low value procurements, best efforts will be made by the purchasing designate and/or Department Head(s) to obtain quotes from vendors without formal advertising or receipt of sealed bids. All low value procurement shall utilize Municipal contracts and shall otherwise be in accordance with this policy. It is the responsibility of the Department Head to ensure that the policy is followed.

3.7 Pre-Approved Firms

A list of pre-approved firms (e.g., consulting engineers, consultants, graphic designers, architects, landscape architects, and environmental consultants) that provide professional consulting services shall be established by the department head for their respective areas. This list shall be supplied to the CAO on an annual basis and updated quarterly where the list has been changed, altered or amended.

The pre-approved list will be based on an evaluation of the firm's competency, expertise, costs, past performance on municipal projects, available capacity and the

size of their operation, and the particulars of the work to be done.

Where a request for consulting services is required, the Municipality shall:

- i. If the value does not exceed \$100,000, allow employees to obtain consulting services that they feel meets the terms and conditions of this policy and considered competitive in the marketplace from the pre-approved firm for that department as approved annually by the CAO.
- ii. If the value exceeds \$100,000, require the purchasing designate to formally issue a proposal, and shall be procured by a bid request and follow the same rules as set out in the competitive procurement section of this policy.

The Department Head shall monitor and document the performance of Vendors providing goods and services to that Department and shall advise the Procurement Officer, in writing, when the performance of a Vendor has been unsatisfactory.

3.8 Non-Binding Procurement

All non-binding bid requests including but not limited to Requests for Pre-Qualification (RFPQ), Requests for Expressions of Interest (RFEI), Requests for Information or Requests for Qualifications, will be formally issued by the department head or designate for the department.

3.9 Request for Pre-Qualification (RFPQ)

A request for pre-qualification may be issued to pre-qualify suppliers for various projects. The purpose of the RFPQ is to determine whether the qualifications of a supplier, as required by the Municipality, are at a level that will allow participation in a subsequent bid opportunity that takes place as a direct result of the RFPQ.

A supplier must be pre-qualified by providing an acceptable response to a RFPQ. Selection of pre-qualified suppliers will be based on disclosed evaluation criteria.

Supplier submission will be evaluated and ranged by an evaluation committee and may consist of municipal staff and consultant staff (if applicable).

Only the suppliers that reach the established threshold contained in the RFPQ document will be pre-qualified and invited to bid on the particular bid opportunity.

3.10 Request for Expression of Interest (RFEOI)

A request for expression of interest may be issued for the purpose of determining the availability of suppliers and for the purpose of compiling a list of suppliers. A RFEOI may be used as a pre-condition to an RFP.

The receipt of an expression of interest by the Municipality does not create any obligation between the potential supplier and the Municipality.

4 *Non-Competitive Purchases: Purchase by Direct Negotiation or Limited Source*

4.1 Direct Negotiation

Unless otherwise provided in accordance with this By-Law, goods, services and construction may be procured using the Direct Negotiation method only if one of the following conditions apply:

- i. The required goods and services will be additional to similar goods and services being supplied under an existing contract (including contract extension or renewal);
- ii. An attempt to procure the required goods and services has been made in good faith using a method other than Direct Negotiation which has failed to identify a successful Vendor and it is not reasonable or desirable that a further attempt to procure the goods and services be made using a method other than Direct Negotiation;
- iii. The goods and services are required as the result of an emergency, which would not reasonably permit the use of a method other than Direct Negotiation;
- iv. The required goods and services are to be supplied by a particular Vendor having special knowledge, skills, expertise or experience;
- v. The goods and services have a value of less than \$10,000.

4.2 Limited Source

Unless otherwise provided The Municipality may conduct a limited source procurement process, if:

- i. The goods and/or services are available from only one supplier by reason of statutory or market-based monopoly. Competition is precluded due to the application of any Act or legislation; or because of the protection of patent rights, copyrights, or other exclusive rights; due to an absence of competition for technical reasons; or controls of raw material; or the complete item, service or system is unique to one supplier and no alternative or substitute exist;
- ii. More than one source of supply exists in the open market, but only one source is recommended due to predetermined and approved specifications.
- iii. If the goods and/or services are available from more than one source, but there are valid and sufficient reasons for selecting one supplier in particular, as follows:
 - a. an attempt to acquire the goods and/or services by soliciting competitive bids has been made in good faith, but has failed to identify more than one willing compliant Vendor or failed to identify a successful Vendor and it is not reasonable or desirable that a further attempt to procure the goods and services be made using a method other than Limited Tendering or Direct Negotiation;
 - b. the confidential nature of the requirements is such that it would not be in the public interest to solicit competitive bids;
 - c. there is a need for compatibility with goods and/or services previously acquired or the required goods and/or services will be additional to similar goods and/or

- services being supplied under an existing contract (i.e., contract extension or renewal);
- d. the product or service is unique and easily established as one of a kind;
 - e. in the judgment of the department head and CAO, the goods and services are in short supply due to market or other unforeseen conditions;
 - f. the extension of an existing or previous contract would prove more cost effective or beneficial for the Municipality;
 - g. the acquisition involves the ongoing maintenance and service requirements for Municipal property;
 - h. the acquisition involves the leasing, rental, disposal or purchase either by or for the Municipality of real property;
 - i. the acquisition is required or is beneficial in regard to the standardization of goods and services for the Municipality;
 - j. an existing contract for a good or service has been terminated prematurely and/or there is an immediate need for the good or service while a new bid request is put out;
 - k. with regards to technological goods and services, there is an economic advantage and/or technical compatibility advantage to the Municipality – such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement;
 - l. additional deliveries by an original supplier of goods and services that were not included in the original procurement, but change cannot be made for economic or technical reasons without causing significant inconvenience or substantial duplication of costs for the Municipality;
 - m. the goods and services are purchased under circumstances that are considered exceptionally advantageous to the Municipality, such as in the case of a bankruptcy or receivership;
 - n. it is advantageous to the Municipality to acquire the goods and services from another public body;
 - o. the procurement of a particular brand of goods and services that are intended solely for resale to the public and no other brand meets the Municipality's program objectives nor is the brand available from any other source;
 - p. such other non-competitive purchases exemptions have been authorized by Council;
 - q. at the discretion of the CAO it is not practical or beneficial to the Municipality to issue a bid, and;
 - r. any and all other items not expressly listed here are prescribed under the exemptions of the Canada Free Trade Agreement, as amended;

4.3 The Department Head shall submit any negotiated acquisition, with the exception of a negotiated acquisition to extend or renew an existing license or maintenance agreement that is included within the program budget, to Council for approval in circumstances where the value of the acquisition exceeds \$100,000.

5 Trade Agreements

5.1 Purchases by the Municipality may be subject to the provisions of trade agreements, including but not limited to: the Canadian Free Trade Agreement (CFTA); the Comprehensive Economic and Trade Agreement (CETA); the Ontario-Quebec Trade and Cooperation Agreement (OQTCA); the Comprehensive and Progressive Agreement for Trans Pacific Partnership (CPTPP); and the United States-Mexico-Canada Agreement (USMCA).

5.2 Where an applicable trade agreement supersedes and is conflict with this by- law, the trade agreement shall take precedence.

6 Emergencies

6.1 The CAO may authorize the acquisition of any goods and services that are required by the Municipality to respond to an emergency.

6.2 Any authority granted under this section shall also include the authority to sign any related contract or other document that may be required as part of the acquisition of the goods and services.

6.3 The Department Head will be required to forward a complete record of the emergency purchase to the CAO and Director of Financial Services/Treasurer.

6.4 The Department Head shall submit a report to Council for emergencies when the cost is in excess of \$50,000.

7 Collaborative Procurement

7.1 Collaborative purchasing with other municipalities, buying groups and group purchasing organizations (GPO) occurs when two or more members combine the purchasing requirements and activities of the members into one joint procurement process. These organizations may represent cooperative arrangements in which individual members administer the procurement function for specific contracts for the group or more formal corporate arrangements in which the organization administers procurement for group members. The individual policies of the government agencies or public authorities participating in the cooperative competitive bid are to be the accepted policies for that particular competitive bid. The Municipality may participate in co-operative purchasing initiatives with other government or broader public sector entities for cooperative acquisition for goods and services when it is in the best interest of the Municipality to do so and the method of acquisition to be used is a competitive method similar to those described in this policy.

7.2 The decision to participate in cooperative purchasing agreements will be made by the Department Head.

7.3 The goals of the collaborative purchasing include:

- a. leveraging the increased buying power of aggregating total spend with other organizations;
- b. standardizing processes by streamlining through one centralized buying organization;
- c. minimizing risks and improve process controls; and
- d. generating savings/efficiencies that benefit the collective participants.

8 General

8.1 The purchasing designate(s), wherever reasonably possible, shall seek to standardize the goods and services required by departments so as to provide the most cost effective and efficient purchasing system that meets the needs of the Municipality.

8.2 Department Heads shall ensure the numbering of procurement bid requests are coordinated with the Procurement Officer.

8.3 Department Heads shall ensure that all specifications in a bid request:

- a. are clear and concise;
- b. indicate the minimum acceptable levels of quality;
- c. are commercially practical;
- d. encourage competitive bidding; and
- e. follow all legislation, and trade agreements applicable to the procurement of goods and services under this policy.

8.4 It is the responsibility of the end user department to enforce any terms, conditions and specifications from the award of any contract resulting from the purchasing process. Where terms, conditions and specifications are not being adhered to, the end user department must contact the supplier and attempt to negotiate to have said deficiencies corrected.

8.5 Except as otherwise stated, dollar amounts shown in this policy that set out the parameters for acquiring goods and services or disposing of goods shall be the total cost including freight, and including applicable non-rebated taxes.

8.6 Any supplier who is retained by the Municipality shall perform all duties and exercise all responsibilities while complying with all policies, procedures, rules and regulations, both written and oral, as are announced by Thames Centre from time to time and that are applicable to the services being provided by the supplier. The supplier shall carry out said duties and responsibilities in a diligent, faithful and honest manner. Thames Centre expects all work, conversations and social media practices carried out by the supplier to be professional and courteous at all times.

8.7 Any supplier who fails to perform work or who have conversations with any

Thames Centre staff and members of the public in an unprofessional manner shall be warned verbally by the purchasing designate that such behaviour is not acceptable. A letter to the supplier will be issued immediately stating the consequences for any further unacceptable behaviour. Any continuation of abusive and unacceptable behaviour including verbal conversations following the issuance of the said letter by the Municipality shall result in the Municipality to take further actions it deems necessary to remedy and mitigate for all losses to the Municipality.

8.8 Where a bid request is solicited for physical submissions, all sealed bids shall be opened in the presence of the purchasing designate and at least one additional Municipal representative.

8.9 Where a bid request is solicited for electronic submissions, every sealed bid received within the time specified in a bid request shall be unsealed and extracted utilizing an electronic bidding system. Each submission and its price will be posted within 48 hours to the electronic bidding system.

8.10 In the case where only one bid is received pursuant to subsection 9 of this section, only the bidder's name shall be posted.

8.11 Where a RFP has been utilized, only the name of the bidder shall be posted.

8.12 The purchasing designate shall ensure that all contracts have clear payment terms that have been reviewed, as necessary, by the Director of Financial Services/Treasurer.

8.13 The purchasing designate shall ensure that the quality of all goods and services acquired by him or her is monitored and deemed acceptable.

8.14 Prior to Council approval of the current budget, a department may incur expenditures up to 40% of the previous year's operating budget. Department Heads will have the authority to instruct the solicitation of bids prior to Council approval of the current budget.

8.15 Where any purchase of goods and services have been authorized under this policy, the Chief Administrative Officer may authorize disbursement of additional funds provided that the additional funds:

- a. do not exceed the lesser of \$50,000 or 20% of the approved budgeted amount;
- b. are available within the departmental budget or, in the case of capital projects, are available from the same source as approved in the capital budget; and
- c. are required to complete works that are necessary as part of the original contract.

8.16 The conditions under subsections 8.15 a., 8.15 b., and 8.15 c. above do not apply where the additional funds are provided to the Municipality by a developer, land owner or government body.

8.17 The Chief Administrative Officer shall have the authority to terminate a contract for the acquisition of a good or service if the grounds for termination in the contract have been met.

8.18 No local preference will be given to any bidder in the acquisition of goods and services as the Municipality shall comply with the *Discriminatory Business Practices Act*, R.S.O. 1990, c. D.12, as amended.

8.19 Unsolicited offers received by the Municipality from a Vendor who has approached the Municipality to advise the Municipality of their ability or desire to undertake Municipal requirements shall be reviewed by the Department Head, in coordination with the Procurement Officer, to determine if it is in the best interest of the Municipality to initiate a procurement process.

8.20 No person submitting an unsolicited bid will be precluded from participating in future bid requests that resemble the unsolicited bid.

8.21 A value-added incentive is an offer by a supplier, over and above the primary goods and services being purchased, with the intent to increase the total value received by the customer.

8.21.1 Value-added incentives will be considered where appropriate and where requested as part of the bid request.

8.21.2 The following rules for the use of value-added incentives will be used by the Municipality:

- a. Value-added incentives should be relevant and connected to the bid request.
- b. The Municipality may in certain circumstances make recommendations with respect to the desired enhancements. The procurement document shall list the specific value-added incentives that would be considered beneficial to the organization.

8.21.3 At no time will cash or bonus payments be accepted as a value-added incentive.

8.21.4 Value-added incentives may be evaluated as a separate and final step after the application of all other related criteria.

8.21.5 Sustainable products or service components may be considered a value-added incentive as a way of differentiating submissions.

9 *Bidding Documents, Receipts, Openings and Agreements*

9.1 Bid documents will be made available on the Municipal website and any other site deemed appropriate for the procurement process. The use of electronic bidding

system is permitted.

9.2 The Department Head, in coordination with the Procurement Officer, shall coordinate the availability of a Notice of Intended Procurement and Summary Notice of Intended Procurement on the Municipal website at least **30** days prior to release of the procurement solicitation. The Notice of Intended Procurement and Summary Notice of Intended Procurement will include requirements as provided in applicable Trade Agreements, as amended from time to time.

9.3 The Procurement Officer, in coordination with Department Heads, shall make a Notice of Planned Procurement available on the Municipal website within 45 (forty-five) days of Council's adoption of the budget and at least **30** days in advance of procurement solicitation.

9.4 Procurement Solicitation minimum open periods shall occur as provided in applicable Trade Agreements, as amended from time to time.

9.5 To ensure receipt of the latest information and updates via email regarding a bid, or if a bidder has obtained this bid document from a third party, the onus is on the bidder to provide contact information as a plan taker for the bid opportunity.

9.6 All competitive documents will be submitted in a sealed, hard-copy format or by submission electronically in the instance of the use of an electronic bidding system, as directed in the procurement document. No competitive documents will be received by the Municipality any other means than what is specified in this policy and directed by the bid request.

9.7 No bids submitted after the closing time specified will be accepted.

9.8 For hard copy submissions: If a bid is submitted through the mail system and is received after the closing time specified, the envelope shall not be opened and it will be returned unopened to the sender. If the bid cannot be returned to the sender for any reason it will remain with the other bids, unopened, until it can be destroyed as per the Municipality's Record Retention By-law.

9.9 For electronic submissions through an e-bidding system: The closing time and date shall be determined by the e-bidding system's web clock. The timing of their bid submission is based on when the bid is received by the bidding system, not when a bid is submitted, as bid transmission can be delayed due to file transfer size, transmission speed, etc.

9.10 For electronic submissions through an e-bidding system: Bidders may edit or withdraw their bid submission prior to the closing time and date. However, the bidder is solely responsible to ensure the re-submitted bid is received by the bidding system prior the stated closing time and date.

9.11 The process for receiving bids submitted in a hard-copy form or submission electronically through the Municipality's e-bidding system will be as follows:

- a. For hard copy submissions: Staff will stamp each bid, as it arrives, with the date, time, company name and contact information, if available.
- b. For electronic submission through an e-bidding system: The e-bidding system will track submission information. The e-bidding system will send a confirmation email to the bidder advising that their bid was submitted successfully. At all times, the onus is solely on the bidder to ensure they receive a confirmatory email.

9.12 All submissions received shall be final and binding for a period of 60 (sixty) days from the closing date and time of the request for procurement and not be altered by any subsequent offerings, discussions or commitments unless it is otherwise indicated in the request for procurement document. After the binding period, the submissions shall be deemed to be closed.

9.13 Where a bid is received that includes an irregularity, the Municipality shall follow the protocol as appropriate for the particular irregularity, as outlined in Appendix "C".

9.14 The Department Head, in coordination with the Procurement Officer, shall inform participating suppliers of the award decision within 10 (ten) days of the award.

9.15 The Department Head, in coordination with the Procurement Officer, shall publish a Notice of Award in the appropriate media not later than 72 (seventy-two) days after the award which shall include requirements as provided in applicable Trade Agreements, as amended from time to time.

10 Access to Information and Records Retention

10.1 The disclosure of procurement records, including bid solicitation or contract awards emanating from bid solicitations shall be in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*. Unsolicited bids which are not accepted by the Municipality will be considered a transitory record and will not be subject to retention requirements.

10.2 The Department Head shall coordinate record retention with the Procurement Officer in accordance with records management policies of the Municipality.

11 Advertising

11.1 Bids shall be posted on the Municipality's website and/or an e-bidding electronic platform and, where considered appropriate, in the opinion of the purchasing designate, advertised in local newspapers, applicable publications or other media, or, where necessary to comply with applicable law, in the applicable publications or other media.

12 Refusal of Bid Response

12.1 The Municipality may, in its sole discretion, disqualify a Vendor from bidding on any procurement if a Vendor:

- a. has at any time, threatened, commenced or engaged in legal claims or litigation against the Municipality;
- b. is involved in a claim or litigation initiated by the Municipality;
- c. is considering or proposing to initiate litigation against the Municipality, or against which the Municipality is considering or proposing to initiate litigation with respect to any previous contract, bid submission or business transaction;
- d. has either breached, or has failed to perform satisfactorily in, a previous Municipality contract in the last three (3) years, and which has been notified by the Municipality of its failure to have performed satisfactorily and the fact that the Municipality will not accept a bid response. The Municipality will notify such entity of its breach or failure to perform as soon as is reasonably practicable in the circumstances.
- e. has failed to satisfy an outstanding debt to the Municipality;
- f. provides incomplete, unrepresentative references or receives unsatisfactory external and/or internal references in a reference check undertaken by a Department Head; or
- g. has engaged in conduct that leads the Municipality to determine that it would not be in the Municipality's best interests to accept a bid;
- h. is discovered by the Municipality to be bankrupt or insolvent or otherwise involved in bankruptcy and insolvency proceedings;
- i. is determined to have made false declarations.

13 Sustainable Procurement Practices

13.1 The Municipality will consider sustainability in its procurement processes and strive for continuous improvement over time. While it is not possible for all sustainability aspects to be incorporated into every purchase, it is the intent of this policy that Municipal employees will, wherever practicable, incorporate and balance all relevant factors to the maximum extent possible. The Municipality will consider both the lifecycle impacts of the goods and services that are purchased, as well as the sustainability practices of its suppliers. The sustainability aspects that may be considered for any procurement include, but are not limited to:

- a. Environmental aspects, including purchasing goods and services from suppliers that:
 - i. Reduce material use, waste and packaging and promote reuse, recycled content, recyclability, reparability, upgradability, durability, biodegradability and renewable products;
 - ii. Maximize energy efficiency;
 - iii. Reduce greenhouse gas (GHG) emissions and air pollution, mitigate

- climate change and support climate change adaptation;
- Conserve water and/or improve water quality;
- iv. Reduce or eliminate the use of toxins and hazardous chemicals, and:
- v. Contribute to biodiversity preservation and habitat restoration.

b. Social aspects, including purchasing goods and services from:

- i. Suppliers, including social enterprises, which provide employment and training for youth and people with employment barriers (e.g., people with disabilities, new immigrants, chronically unemployed, ex-offenders, etc.);
- ii. Suppliers that demonstrate best practices in workplace diversity, inclusion and accessibility (e.g., women, indigenous, minority-owned businesses or businesses owned by persons with disabilities);
- iii. Suppliers that make and or sell goods that are certified Fairtrade (i.e., distinguished by the independent consumer product label that meets the international Fairtrade Standards, meaning the product has been certified to offer a better deal to the farmers and workers involved); and
- iv. Suppliers with good health and safety work place practices.

c. Ethical aspects, including purchasing goods and services from:

- i. Suppliers that exhibit fair labour practices and respect human rights.

14 *Persons with Disabilities (AODA)*

14.1 Accessibility for Ontarians with Disabilities Act (AODA), to the extent possible, shall incorporate accessibility design, criteria and features, when procuring or acquiring goods, services or facilities in accordance with the AODA. Where it is not practicable to incorporate the said accessibility design, criteria and features when procuring or acquiring goods, services or facilities, the Municipality shall be prepared to provide, upon request, an explanation as to why this is the case (Ontario Regulations 191/11).

15 *Performance Evaluation Criteria*

15.1 An employee who administers a contract that was entered into pursuant to this policy shall, for all contracts over \$100,000 complete the performance evaluation criteria set out in the bid contract, including price criteria.

15.2 The purchasing designate shall implement and oversee the performance evaluation criteria and, without limiting the foregoing, the Department Head may prescribe the performance evaluation criteria.

15.3 Every performance evaluation shall be approved in writing by the Chief Administrative Officer and Procurement Officer and a copy of the performance evaluation criteria provided to the contractor.

15.4 Every contractor may, within fifteen (15) calendar days of receipt of a performance evaluation criteria, write to the Department Head and request that the performance evaluation be reviewed in relation to the grounds as set out in the contractor's written request. The review committee shall be comprised of three (3) people including the Department Head, the Director of Financial Services or Procurement Officer and the Chief Administrative Officer.

15.5 Ten (10) days upon receipt of a written request pursuant to subsection (4) of this section, the review committee shall review the performance evaluation based on the grounds set out in the request and the committee shall have all the authority to either revise or confirm the performance evaluation.

15.6 Bids will not be accepted by the contractor for work as a general or sub-contractor during the review process.

15.7 At the conclusion of the review, the CAO shall advise the contractor in writing of the decision, and that decision shall be final.

16 *Disposal of Surplus Goods*

16.1 The Department Head may declare any goods that are owned by the Municipality to be surplus when the goods are:

- a. no longer required by the Municipality;
- b. obsolete; or
- c. in a state beyond repair, having regard to their relative value.

16.2 When goods are declared to be surplus in accordance with subsection (1) of this section, the Department Head, in collaboration with the Procurement Officer, may dispose of the goods by trade-in on purchases of vehicle/equipment, public or online auction, tender, quotation or negotiation based on terms and conditions that are in the best interests of the Municipality.

16.3 Where the Department Head and Procurement Officer determine that surplus goods cannot be sold in accordance with subsection (2) of this section, the Department Head may dispose of the goods in such manner as he or she deems appropriate.

16.4 The Department Head shall not sell surplus goods under this section directly or through a bid request to any elected official, officer, employee or immediate family member of an elected official, officer or employee of the Municipality unless the Department Head has the prior approval of Council.

16.5 Nothing in this section shall prohibit or otherwise restrict the ability of the Municipality to donate or otherwise dispose of surplus goods at or below fair market

value when the disposal is for the benefit of the community or for humanitarian purposes.

16.6 Nothing in this section shall prohibit or otherwise restrict the Municipality from trading or selling the surplus goods to other government agencies.

17 *Signing Authority*

17.1 When awarding of a contract following a bid request or other procurement process in compliance with this policy, it shall be deemed that pursuant to such approval, the signing officers of the Municipality have authority to execute, on behalf of the Municipality, all agreements required to implement the awarded contract.

18 *Conflict of Interest*

18.1 The purchasing designate shall abide by all Municipal policies concerning a Conflict of Interest when carrying out any duties or functions under this policy.

18.2 For clarification purposes no elected official, officer or employee of the Municipality with knowledge of the bid process shall allow contact with a person, or any officer, employee or agent of a person, who has submitted a bid to the Municipality unless the bid request has been awarded or the contact is for the purpose of receiving a complaint.

18.3 Elected officials, appointed officers and employees shall not cause or permit anything to be done or communicated to anyone in a manner which is likely to cause any potential supplier to have an unfair advantage or disadvantage in obtaining a contract for the supply of goods and/or services to the Municipality.

18.4 In keeping with municipal procurement best practices, elected and appointed officials shall have no involvement in specific procurements, including not seeing any related documents or receiving any related information from the time those procurements have been advertised or solicited until the Contract has been entered into.

19 *Prohibited Vendors*

19.1 The Municipality shall not procure goods and services from any of the following:

- a. Elected officials, appointed officers, municipal employees or volunteers;
- b. any person noted in (a.) of this section who maintains a controlling interest in a business involved in a bid request;
- c. Clauses a) and b) are subject to review of: the service need, employment relationship with the Municipality and satisfaction of the procurement conditions fulfilled, all being conditions taken into consideration as approved by the Department Head and in consultation with the CAO.

Notwithstanding subsections (1) and (2) the Municipality may, at its request, seek a conflict of interest affidavit from any bidder pursuant to this policy.

20 Resolution and Debriefing

20.1 Disputes shall be resolved as follows; any bidder involved in a bid request, may present the Municipality with a dispute claim regarding the process. The process for dispute resolution shall be as follows:

- a. The bidder identifying the dispute shall provide in writing to the purchasing designate full details including times, dates and historical information specific to the nature of the dispute claim.
- b. The Department Head, in coordination with the Procurement Officer, will investigate the claim and report back to the bidder in no more than ten (10) business days. This may include a meeting with the vendor.
- c. The bidder may further appeal the dispute to the Chief Administrative Officer in writing within no more than five (5) business days from receipt of the findings of the investigation noted in subsection (b) (above). The Chief Administrative Officer will review the original dispute and the investigation and provide a response back to the bidder within fifteen (15) business days of receipt of the appeal.
- d. A dispute claim shall not prohibit, rescind or delay the award of any contract unless recommended by the Chief Administrative Officer, Director of Financial Services/Treasurer and Department Head.
- e. Any bidder participating in a bid request may, at the conclusion of the bid request, seek a debrief with Municipal representatives regarding their submission. Debrief requests must be received within ten (10) calendar days of the award notification.
- f. Where a debrief has been requested, only information material to the bidder's submission will be discussed. This does not include ranking of the submission or financials in relation to other submissions. Only general information regarding the quality of the submission will be discussed but no detailed numbers will be provided.

21 Form and Amount of Security

21.1 Performance security to guarantee the completion of the contract is required for the supply and installation of equipment and materials and all services/construction valued over \$100,000. Where performance security is deemed necessary, it shall take the form of one or a combination of one or more of the following:

- i. Performance Bond
- ii. Labour and Material Payment Bond
- iii. Irrevocable Letter of Credit
- iv. Money order

- v. Canadian Currency
- vi. Certified Cheque

For procurement valued from \$100,000 to under \$500,000, the Department Head shall determine the appropriate means to guarantee execution and performance of the contract through the amount and form of security or bid deposit.

For construction improvement work valued in excess of \$500,000, Section 85.1 of the Ontario Construction Act stipulates that bond security is the only acceptable form of security and shall be for a minimum of 50% of the contract price.

21.2 The Municipality does not pay interest on any security or bid deposit.

21.3 The following criteria can be used as a guide to determine the form and amount of security:

- a. the type of work and the usual practice of the trade or profession;
- b. the consequences of the failure or inability of the contractor to fulfill contractual obligations;
- c. before solicitation of bids, the stability of firms likely to compete for the contract, and;
- d. after solicitation of bids, the capability of the specific contractor, including (as deemed applicable and available) the financial structure, performance record, payment record, credit rating and availability of cash in relation to commitments.

22 Insurance and Indemnity

22.1 The Supplier shall defend, indemnify and save harmless the Municipality, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including, but not limited to, bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service arising out of or allegedly attributable to the negligence, acts, errors, omission, misfeasance, nonfeasance, fraud or willful misconduct of the Supplier, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the delivery or performance of a Contract and any terms and conditions set out in response to the bid request. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Supplier in accordance with a Contract and shall survive a Contract and any terms and conditions set out in a response to the bid. The Supplier agrees to defend, indemnify and save harmless the Municipality from and against any claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever arising out of or related to the Supplier's status with WSIB. This

indemnity shall be in addition to and not in lieu of any proof of WSIB status and complainacen to be provided by the Supplier in accordance with a Contract and any terms and conditions set out in response to the bid request, and shall survive a Contract and any terms and conditions set out in a response to the bid request.

22.2 Any bid documents in response to a bid request shall disclose all necessary insurance information and requirements.

22.3 All insurance must be in a form satisfactory to the Department Head and must be delivered prior to the commencement of work and shall remain in force for the duration of the contract inclusive of any maintenance period and shall include the following:

- i. Name the Municipality as an additional insured, as applicable;
- ii. Be primary and non-contributing;
- iii. Contain a “cross liability/separation of insureds” clause, and;
- iv. Not be altered, cancelled or permitted to lapse without providing thirty (30) days’ prior written notice to the Municipality by the insurer.

22.4 In general the standard insurance minimums are as follows; however, from time to time, the Municipality reserves the right to increase or reduce the amounts as approved by the CAO and/or the Municipality’s insurance provider:

- a. \$5 million – commercial general liability policy
- b. \$5 million – owned and non-owned automotive liability policy
- c. \$1 million – homeowners (e.g. for rental of facilities)
- d. \$5 million – professional errors and omissions liability (as applicable)
- e. \$5 million – environmental impairment liability (as applicable)
- f. The amount of the project cost – Builders Risk (as applicable)

22.5 Other Insurance Coverage – The Municipality reserves the right to request different limits of insurance or other types of policies appropriate to the agreement as the Municipality may reasonably require from time to time with review of the Municipality’s insurance provider.

23 *Legal Requirements*

23.1 The Municipality will conduct any and all procurement activities in accordance with all applicable laws. Goods and services shall not be afforded preferential treatment under this policy or in any bid solicitation based on location or origin of the goods and services.

23.2 Ontario Law: When conducting procurement, the Municipality should understand their obligations. Individuals engaged in supply chain activities on behalf of the Municipality must be aware of all applicable laws and the importance of professional conduct. Where necessary, the Municipality will seek legal advice on

procurement.

23.3 Privacy Legislation: The *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), 1990 makes public bodies accountable to the public and responsible to protect personal privacy. The privacy legislation stipulates a right of access to records held by public bodies and regulates how public bodies manage personal information collected. All correspondence, documentation, and information provided to the Municipality of Thames Centre by any proponent in connection with the respective request for procurement will become the property of the Municipality. All documentation relating to a request for procurement not identified is subject to the provisions of MFIPPA and may be released, pursuant to the provisions of MFIPPA. At a minimum, the Proponent's name and total bid amount will be made publicly available upon request.

23.4 Trade Agreements: The Municipality is subject to various trade agreements. Bid solicitations shall comply with all applicable trade agreements, and shall include clear specifications, evaluation criteria and terms and conditions that can be applied in a fair, transparent and consistent manner. The Municipality must follow provisions of applicable trade agreements. Where these trade agreements do not require the Municipality to conduct procurement through a competitive process, the Municipality is strongly encouraged to utilize a competitive approach to procurement.

23.5 Occupational Health and Safety Act: The contractor is bound by regulations issued by the Ministry of Labour for the Province of Ontario under the *Occupational Health and Safety Act*. The contractor acknowledges that they comply with these regulations and that they are the contractor under the *Occupational Health and Safety Act* as it relates to the completion of the work, and shall indemnify and hold harmless the Municipality in respect of same, including any, legal costs, fines or other penalties incurred by the Municipality resulting from the contractor's performance or failure to perform under the contract terms.

23.6 Insurance and Workplace Safety and Insurance Board (WSIB): All vendors who supply services to Thames Centre shall, before the start of work, provide proof of insurance and WSIB clearance certificate. General liability amounts shall have limits no less than \$5,000,000 and will be determined by the Department Head.

23.7 Financial Security: The purchasing designate in consultation with the Department Head will determine the need for and amount of financial security, subject to any applicable law that may apply to the procurement.

23.8 Various forms of financial security exist to ensure that the contractor's obligations under the contract are carried out, to protect the interests of subcontractors, sub-subcontractors and suppliers, and to protect the Municipality against loss should a successful proponent fail to enter into or fulfill a contract.

23.9 The principal traditional techniques are holdbacks, security deposits and surety bonds. When security is obtained, the Department Head will apply the procedures for

the handling of bonds and security deposits as set out in the procurement documents.

24 Administration

24.1 This policy may be cited as the “Procurement Policy.”

24.2 Any complaint that the Municipality failed to abide by the provisions of this policy that is significant in nature shall be reported to the Chief Administrative Officer who shall investigate the complaint and report to Council as necessary.

24.3 A failure to adhere to the provisions of this policy shall not render any acquisition, contract or other document to be void or voidable.

24.4 Council may waive any provisions or requirements of this policy, unless it is required by law and/or trade treaty.

24.5 The purchasing designate, in the administration of this policy, shall abide by all applicable laws including any and all applicable trade agreements.

24.6 If any section or sections of this policy or parts thereof are found by any court to be invalid or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this policy shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found invalid or beyond the power of Council to enact.

24.7 The Director of Financial Services/Treasurer shall review the effectiveness of this policy at a minimum of every five (5) years and report to Council as necessary.

APPENDIX “A” – LEVELS OF CONTRACT APPROVAL AUTHORITY

I – Approval Authority

In the case of multi-year supply and/or service contracts, the pre-authorized expenditure limit shall refer to the estimated total annual expenditure under the contract.

| Dollar Value (including non-rebated taxes, duty & shipping) | Approved Authority | Procurement Process | Source of Bid | Report to Council Required |
|---|---|---|---|--|
| \$10,000 or greater, but less than \$35,000 | Chief Administrative Officer (CAO), Department Head | Informal Quotations | Purchases made from the competitive market place. | No |
| \$35,000 or greater, but less than \$100,000 | CAO, Department Head | Formal Quotations (Request for Quotation), Request for Proposal, Request for Tender | Minimum of three (3) quotations where reasonably possible, by invitation or open competition. | No |
| \$100,000 or less | CAO, Department Head | Consulting Services | Purchases made from the competitive market place and pre-approved firms. | No |
| \$100,000 or greater | Municipal Council | Request for Proposal or Request for Tender | Open competition. | Yes, when the amount to be awarded is greater than the lessor of \$50,000 or 20% of the approved budgeted amount *, or less than two bids were received. |

*As outlined in the policy Section 8.15, in specific instances, the CAO may authorize disbursement of additional funds provided that they do not exceed the lessor of \$50,000 or 20% of the approved budgeted amount and a funding source is available for the overage.

II – Signing Authority

Municipality of Thames Centre Invoice Approval Policy

| Department | Job Title | Purchasing Role | Limit Up To (including non-rebated taxes) |
|---------------------------------|---|--------------------------|---|
| Administration | Chief Administrative Officer | CAO in role as Purchaser | \$100,000 |
| Administration | Clerk | Department Head | \$100,000 |
| Public Works | Director | Department Head | \$100,000 |
| Public Works | Drainage Superintendent | Purchasing Designate | \$10,000 |
| Public Works | Transportation Superintendent | Purchasing Designate | \$ 10,000 |
| Public Works | Environmental Services Superintendent | Purchasing Designate | \$ 10,000 |
| Community Services & Facilities | Director | Department Head | \$100,000 |
| Community Services & Facilities | Parks & Facilities Supervisor | Purchasing Designate | \$ 10,000 |
| Planning & Development Services | Director | Department Head | \$ 100,000 |
| Planning & Development Services | CBCO/Chief Building Official/By-Law Enforcement Officer | Purchasing Designate | \$ 10,000 |
| Fire Services | Fire Chief | Department Head | \$ 100,000 |
| Financial Services | Director | Department Head | \$ 100,000 |
| Council | | | Purchases over \$100,000 are approved in municipal budgets or by resolution of Council. |

Notes:

- Employees cannot approve their own invoices or expense reports.
- Invoices over \$10,000 shall include the approval of the Department Head and the Director of Financial Services/Treasurer.
- Department Head expenses, Treasury invoices over \$10,000 and invoices over \$100,000 shall include the approval of the CAO.
- It is the approver's responsibility to confirm with the individual ordering/purchasing the items to ensure that all work is complete/received.

APPENDIX “B” – GOODS AND SERVICES NOT SUBJECT TO THIS POLICY

Competitive bids shall not be required for the following goods and services:

- a) Petty cash items;
- b) Advertising services and public notices;
- c) Public auctions or purchases from other government agencies/municipalities;
- d) Conferences, conventions, workshops, training or seminars and their associated costs;
- e) Meals, travel and accommodation;
- f) Outside legal counsel or other legal services;
- g) Memberships in associations;
- h) Magazines, books, periodicals, subscriptions;
- i) Ongoing maintenance and support for existing computer hardware and software;
- j) Financial services such as bank charges, investments, collection agency services;
- k) Permits, certificates, licenses and other approvals acquired through a government or regulatory body or payments required under statutory authority;
- l) Postage;
- m) Health or social services including laboratory services;
- n) Goods or services with artistic, cultural or historic significance;
- o) Any and all other items not expressly listed here, but documented within the Canada Free Trade Agreement;
- p) Payroll and payroll deductions including tax, WSIB and OMERS remittances;
- q) Provision of employee and member assistance programs;
- r) Utilities and telecommunications;
- s) Insurance, insurance review services, insurance claim settlements and adjuster services;
- t) Legal services and labour relation services, including services in support of collective agreement negotiations, as deemed appropriate by the CAO;
- u) Election materials: The Municipal Clerk has the authority to purchase goods, services and equipment considered necessary or advisable to carry out the requirements of the *Municipal Elections Act, 1996*, S.O. 1996, Ch. 32, as amended;
- v) Costs subject to the provisions of Development Agreements and Developer reimbursements;
- w) Police services;
- x) Development charges;
- y) Purchases for the supply and maintenance of road material throughout the Municipality that do not exceed \$100,000 when included in the budget;
- z) Goods and/or services specifically authorized by resolution of Council;
- aa) Purchase of used fleet or equipment, when included in the budget, provided that the

item(s) meet or exceed the departmental fleet or equipment requirements and documentation has been provided to the Procurement Officer that the purchase is in the best interest of the municipality;

bb) Professional and special services up to \$100,000 when clearly identified in the budget, including but not limited to:

- Additional non-recurring accounting and auditing services;
- Realty services for lease, rent, acquisition, demolition, sale, easements, encroachments and appraisal of land and property, including appraisal and consulting services related to matters of expropriation and payment of real estate commissions;
- Consultants for peer review and development review;
- Construction administration;
- Property tax bill printing and mailing services; and/or
- Integrity Commissioner services.

APPENDIX “C” – IRREGULARITIES CONTAINED IN BIDS

The following list of bid irregularities should not be considered exhaustive.

This chart below shall apply only where an irregularity exists with respect to a stated requirement of a relevant competitive bid document issued by the Municipality.

| Irregularity | Response |
|---|--|
| 1. Late bids. | Automatic rejection, not read publicly and returned unopened to the bidder. |
| 2. Bids completed in pencil. | Automatic rejection. |
| 3. Unsealed envelopes for hard copy submission. | May be rejected at the discretion of the Department Head or CAO. |
| 4. Insufficient financial security (no bid deposit or insufficient bid deposit). | Automatic rejection. |
| 5. Failure to insert the name of the bonding company in the space provided for in the bid documents. | Automatic rejection. |
| 6. Failure to provide a letter of agreement to bond/ letter of guarantee where required. | Automatic rejection. |
| 7. Bond / letter of credit from a company not licensed to do business in Ontario. | Automatic rejection |
| 8. Incomplete, illegible or obscure bids or bids which contain additions not called for, erasures, alterations, errors or irregularities of any kind. | May be rejected as informal. Mandatory requirements must be met if not, automatic rejection. |
| 9. Documents in which all addenda have not been acknowledged. | Automatic rejection. |
| 10. Failure to attend mandatory site visit. | Automatic rejection. |
| 11. Failure to insert the bidder's business name in the bid documents. | Automatic rejection. |
| 12. Signature/electronic signature missing from signature page. | Automatic rejection. |
| 13. Conditions placed by the bidder on the total contract price. | Automatic rejection. |
| 14. Bids containing minor clerical errors. | 2 business days to correct initial errors |

| Irregularity | Response |
|---|--|
| <p>15. Bids containing minor mathematical errors.</p> | <ul style="list-style-type: none"> a) If the amount bid for a unit price item does not agree with the extension of the estimated quantity and the bid unit price, or if the extension has not been made, the unit price shall govern and the total price shall be corrected accordingly. b) If both the unit price and the total price are left blank, then both shall be considered as zero. c) If the unit price is left blank but a total price is shown for the item, the unit price shall be established by dividing the total price by the estimated quantity. d) If the total price is left blank for a lump sum item, it shall be considered as zero. e) If the bid documents contain an error in addition and/or subtraction and/or transcription in the approved competitive bid documentation format requested (i.e., not the additional supporting documentation supplied), the error shall be corrected and the corrected total contract price shall govern. f) Bid documents containing prices which appear to be so unbalanced as to likely affect the interests of the Municipality adversely may be rejected. |

APPENDIX “D” – STATEMENT OF ETHICS FOR PUBLIC PURCHASERS

Goal: To ensure an ethical, professional and accountable Municipality’s supply chain.

Personal Integrity and Professionalism: Individuals involved with supply chain activities must act, and be seen to act, with integrity, impartiality and professionalism. Honesty, care and due diligence must be integral to all supply chain activities within and between the Municipality, suppliers and other stakeholders. Respect must be demonstrated for each other and for the environment. Confidential information must be safeguarded. Participants must not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.

Accountability and Transparency: Supply chain activities must be open and accountable. In particular, contracting and purchasing activities must be fair, transparent, and conducted with a view to obtaining the best value for public money. All participants must ensure that municipal resources are used in a responsible, efficient and effective manner.

Compliance and Continuous Improvement: Individuals involved with purchasing or other supply chain activities must comply with this Statement of Ethics and the laws of Canada and Ontario. Individuals should continuously work to improve supply chain policies and procedures, to improve their supply chain knowledge and skill levels, and to share leading practices.