

The Corporation of the Township of Huron-Kinloss



BY-LAW

No. 2022 - 196

**BEING A BY-LAW TO ADOPT A PURCHASING & PROCUREMENT
POLICY FOR THE TOWNSHIP OF HURON-KINLOSS**

WHEREAS Section 8(1) and 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provide that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues and has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under this or any other Act;

AND WHEREAS the *Municipal Act* S.O. 2001, c25, Section 270. (1), as amended, provides that a municipality shall adopt and maintain policies with respect to its procurement of goods and services;

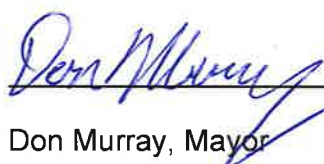
AND WHEREAS the Council of The Corporation of the Township of Huron-Kinloss deems it expedient to establish a new Purchasing and Procurement Policy, to serve as a guideline for the acquisition of materials, supplies and services.

NOW THEREFORE the Council of The Corporation of the Township of Huron-Kinloss **ENACTS** as follows;

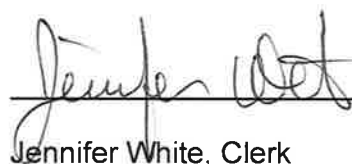
1. That the Council of The Corporation of the Township of Huron-Kinloss hereby adopts the "Purchasing & Procurement Policy", which is attached as Schedule "A" and forms a part of this by-law.
2. That By-law No. 2014-68 is hereby repealed.
3. That this by-law shall come into full force and effect upon its final passage.
4. That this by-law may be cited as the "Purchasing & Procurement Policy By-law".

READ a FIRST and SECOND TIME this 19th day of December, 2022.

READ a THIRD TIME and FINALLY PASSED this 19th day of December, 2022.



Don Murray, Mayor



Jennifer White, Clerk



Township of Huron-Kinloss

Purchasing and Procurement Policy



Contents

Policy.....	3
Coverage:.....	3
Policy Statement:	3
Legislative Authority.....	3
Contents:	4
1.0 Definitions.....	4
2.0 General Provisions.....	9
3.0 Purchasing Principles	9
4.0 Procurement Process Goals.....	11
5.0 Methods of Purchasing	12
6.0 Non-Competitive Procurement (Exemptions).....	18
7.0 Emergency Procedures.....	21
8.0 Contractor Performance Evaluation.....	21
9.0 Exclusion of Bidders in Litigation.....	22
10.0 Authorities (Transfer of Expenditures).....	23
11.0 Payments and Reports.....	23
12.0 Purchase of Used or Demo Fleet Equipment	24
13.0 On-Going Services and Contracts	24
14.0 Insurance	25
15.0 Prohibitions.....	26
16.0 Records Retention.....	26
17.0 Ultra Vires.....	26
Schedule "A"	27
Schedule "B"	28
Schedule "C"	31
Schedule "D"	33



Policy

Section: 2.0 Finance/Treasury

Policy: Purchasing and Procurement Policy

By-Law: 2022-196

Date: 19 December 2022

Revision: not applicable

Coverage:

This Policy shall apply to all elected officials, officers, employees, committees and boards of the Township of Huron-Kinloss.

This Policy applies to the acquisition of all deliverables with the exception of those items described in Schedule B.

All procurement undertaken by the Township shall be undertaken in accordance with this Policy, the Township's policies and procedures, including Council and Employee Code of Conduct Policies, and in accordance with the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50, as amended.

Policy Statement:

The purpose of this Policy is to set out guidelines for the Township: to ensure that all purchases of materials, supplies and services provide the lowest costs consistent with the required quality and service;

To ensure an open and honest process shall be maintained, that is fair and impartial;

To 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.

Legislative Authority:

The *Municipal Act, 2001*, as amended in Section 270, provides that a Township shall adopt policies with respect to its procurement of goods and services.



The Corporation of the Township of Huron-Kinloss

This Policy outlines:

- a) The types of procurement processes that shall be used;
- b) The goals to be achieved by using each type of procurement process;
- c) The circumstances under which each type of procurement process shall be used;
- d) The circumstances under which a tendering process is not required;
- e) The circumstances under which in-house bids will be encouraged as part of a tendering process;
- f) How the integrity of each procurement process will be maintained;
- g) How the interests of the Township or local board, as the case may be, the public and persons participating in a procurement process will be protected; and
- h) How and when the procurement process will be reviewed to evaluate their effectiveness.

Contents:

1.0 Definitions

In this Policy, the following is true:

- a) the word "may" is permissive;
- b) the word "shall" is imperative;
- c) words used in the present tenses include the future;
- d) words in the singular form include the plural form, and words in the plural include the singular

For the Purposes of this Policy,

"Approved Budget" shall mean a budget approved by the Council for the current fiscal year.



The Corporation of the Township of Huron-Kinloss

"Agreement" shall mean a formal written contract for the supply of goods and services which contains the complete set of requirements, terms and conditions of the deal or incorporates them via reference and which is signed by authorized officers of the parties.

"Authority" shall mean the legal right to conduct the tasks outlined in this Policy as directed by Council.

"Authority to Award" shall mean the authority to award a project and have signing authority to sign a contract if necessary.

"Authority to Spend" shall mean the authority to procure and approve invoices.

"Authorized Delegate" shall mean an employee who has had responsibility transferred to them from a Manager or Department Head.

"Bid" shall mean a submission from a prospective vendor in response to a request for the purchase of goods or services issued by the Township.

"Bid Deposit" shall mean a financial guarantee to ensure the successful Bidder will enter into an agreement.

"Call for Bid" means a formal request for Bid, on the terms and conditions set forth in the Township's Bid documents, which may be in the form of a Request for Quotation (RFQ), Request for Proposal (RFP), Request for Tender (RFT) or Request for Information (RFI).

"Canadian Free Trade Agreement" (CFTA) is a comprehensive agreement on Canadian internal trade with the objective of eliminating barriers to the free movement of persons, goods, services and investments within Canada.

"Centralized Purchasing" a system of purchasing in which coordination responsibility and control of procurement activities are concentrated in one administrative unit when deemed appropriate.

"Chief Administrative Officer" shall mean the Chief Administrative Officer (CAO) of The Corporation of the Township of Huron-Kinloss.

"Comprehensive Economic and Trade Agreement" (CETA) is a free-trade agreement between Canada, the European Union and its member states.



The Corporation of the Township of Huron-Kinloss

"Contract" shall mean a written binding agreement between the Township and the party providing the goods and services at a specified price.

"Council" shall mean the Council of The Corporation of the Township of Huron-Kinloss.

"Department" shall mean any department within the Township, including any Board for which the Township provides purchasing services.

"Department Head" shall mean the senior manager of a department within The Corporation of the Township of Huron-Kinloss who reports directly to the CAO.

"Direct Source" shall mean the method of purchase where goods and services are ordered and purchased directly from a supplier with or without negotiation.

"Emergency" shall mean a situation where immediate purchase of goods or services is essential to prevent serious delays, further damage, or to restore minimum services.

"Emergency Purchase" shall mean a purchase made in a crisis where immediate action is required to prevent serious delay, further damage or to restore/maintain essential service.

"Firms" shall mean the company, group, business or individuals conducting business and supplying goods and services.

"Formal Bid" shall mean a sealed bid submission.

"Formal Invitation" shall mean an invitation provided to a pre-qualified vendor completed through a formal process such as a Request for Pre-Qualification (RFPQ).

"Generic" shall mean that no specific brand or name shall be included as part of the specifications unless such a brand or name is required to identify the intent of a purchase, order or proposal.

"Goods and Services" shall mean supplies, work, equipment, property, construction, etc. which the Township is intending to obtain, including the services of consultants.

"In-House Bid" is a process that allows internal staff to compete with external entities for procurement opportunities.

"Informal Invitation" shall mean extending invitations to vendors based on the Department Head's experience and knowledge of the vendors.



The Corporation of the Township of Huron-Kinloss

“Life-cycle Cost” means the sum of all recurring and one-time costs over the full life span of a good, service, structure or system and includes the purchase price, installation cost, operating, maintenance, upgrade, training, and disposal costs.

“Negotiation” means the action or process of conferring with one or more vendors with the goal of coming to an agreement on the acquisition of the required goods, services and/or construction made pursuant to this Policy.

“Procurement Method” shall mean the process by which goods or services are procured.

“Personal Purchase” shall mean a purchase of goods and services, the requirement for which is not for the Township or any of its purposes, but is personal to the person requesting the purchase.

“Professional and Consulting Service” shall mean a person or firm, who by virtue of particular expertise is hired by the Township to undertake a specific task or assignment that may include designing specifications and preparing plans of programs.

“Project Manager” shall mean the individual responsible for the planning and execution of the project or purchase.

“Purchases” shall mean the acquisition of goods or services for which the Township will undertake to pay, regardless of the cost being funded or subsidized by other levels of government.

“Purchase Order” means a standard form document that may be used by the Township to formalize a purchasing transaction with a supplier of Goods and Services.

“Quotation” shall mean a written offer received from a supplier to sell or buy goods and services in response to a direct request.

“Request for Information” (RFI) means a formal non-binding method whereby the Township states its need for input from interested parties for an upcoming Call for Bid. A procurement practice used to obtain information, comments, feedback or reactions from potential suppliers/contractors/vendors prior to the issuing of a Call for Bid. Generally, price or cost is not required. Feedback may include best practices, industry standards, technology issues, etc.

“Request for Proposal” (RFP) means a competitive procurement process for obtaining unique proposals designed to meet terms of reference. This process allows vendors to propose



The Corporation of the Township of Huron-Kinloss

solutions to arrive at the product and allows for evaluation on criteria other than price. An RFP may include provision for negotiation making it a Negotiable Request for Proposal (N-RFP)

“Request for Quotation” (RFQ) shall mean a competitive bid process for goods or services by formal or informal request where the particular requirements for goods and/or services are outlined in a document that is conveyed to and received from Bidders in a written format by mail or hand-delivery.

“Request for Tender” (RFT) shall mean a formal request for competitive bid process for goods or services where the particular requirements for goods and/or services are outlined in a document that is conveyed to and received from Bidders in a written format by mail or hand-delivery.

“Sealed bids” are submitted in a sealed envelope to a specified location, by a specified date and time.

“Single Source” means the purchase of Goods and Services from a particular vendor without solicitation of bids from other suppliers who can supply the same item.

“Sole Source” means the purchasing of Goods and Services that are unique to a particular vendor and cannot be obtained from another source.

“Tender” shall mean a document which sets out particular specifications for the commodity or service required. This can also refer to an offer in writing to execute some specified work or to provide some specified articles at a specified rate.

“Total Acquisition Cost” means the cost which results in the lowest cost ownership, operation or purchase or lease to the Township. This cost is arrived at after considering all factors such as price, quality, services, terms and conditions and warranties, including taxes and discounts.

“Township” shall mean The Corporation of the Township of Huron-Kinloss.

“Treasurer” shall mean the appointed Treasurer for the Township of Huron-Kinloss who is responsible for handling the financial affairs of the organization.

“Vendor” shall mean any person or enterprise supplying goods or services to the Township of Huron-Kinloss.



2.0 General Provisions

During the purchasing process, in-house bids will not be considered.

- 2.1 Anyone involved in procuring goods or services for the Township must declare any direct or indirect pecuniary or personal interest in a procurement or potential contract to the CAO or Treasurer. Where it is determined that a conflict of interest exists such person shall be excluded from the procurement.
- 2.2 No purchase of goods and services shall be authorized unless it complies with the Purchasing and Procurement Policy. Goods and services that are obtained without following the provisions of this Policy will not be accepted and any invoices received will not be processed for payment.
- 2.3 Prior to the Council adopting the operating budget and capital budget, no employee, Committee Member or Member of Council is authorized to purchase any goods or services other than those goods or services required on a recurring basis for the day-to-day operations of the Township, without the prior approval of Council.
 - i. Disputes, received in writing shall be resolved as follows:
 - ii. Meeting between the Bidder, Treasurer, and the Department Head responsible.
 - iii. If (i) does not lead to a resolution, the decision can be appealed to the CAO.
- 2.4 This Policy shall be reviewed every five years or more frequently as required.

3.0 Purchasing Principles

The objective of this Policy is to ensure that the Township conducts procurement processes that conform to the following principles:

- 3.1 To purchase, rent or lease goods and services of a quality and quantity required by the Township in an efficient and cost-effective manner.
- 3.2 To encourage open competitive bidding on all acquisitions of goods and services where practicable and ensure the principles of fairness, transparency and accountability are upheld in the Township's procurement processes.
- 3.3 To recognize the authority of Council on all matters that generally concern the finances of the Township.
- 3.4 The Purchasing and Procurement Policy shall be adhered to by any other agency purchasing goods and services on behalf of the Township of Huron-Kinloss.



The Corporation of the Township of Huron-Kinloss

- 3.5** To recognize the authority of the annual operating and capital budgets approved by Council as providing a framework to Department Heads for the determination of the goods and services to be purchased. The inclusion of any item in a department's operating budget or capital budget shall confer to the Department Head the authority to incur such expenditures in accordance with this Policy.
- 3.6** To ensure compliance with applicable legislation and international and interprovincial trade treaties, legal standards and best practices in Canadian public procurement.
- 3.7** To consider the total acquisition costs, including life-cycle costs, operating, training, maintenance, quality, warranty, energy consumption, payment terms, disposal value and disposal costs rather than only the lowest price received.
- 3.8** To encourage the procurement of deliverables with due regard to the preservation of the natural environment by providing for the consideration of "green solutions" and reduced energy consumption, where appropriate and feasible.
- 3.9** To ensure compliance with all health and safety regulations. To be more specific, when purchasing new equipment or materials the Township of Huron-Kinloss shall ensure that consideration is given to all applicable legislation and health and safety standards. The Township will ensure that health & safety requirements have been included in the purchasing specifications. A health & safety review will be conducted, involving the JHSC or Worker Health & Safety Representative, a Management Representative and applicable operators as required.
- 3.10** To encourage standardization of goods and services to allow for:
- i. Increased volume on common goods;
 - ii. Providing economies of scale;
 - iii. Reduced handling, training and storage costs;
 - iv. Co-operative purchasing opportunities.
- 3.11** Every effort shall be made wherever and whenever possible, to purchase centrally those goods and services that are of a common nature to Departments concerned, so as to promote lower ultimate costs of goods and services. When deemed appropriate the



The Corporation of the Township of Huron-Kinloss

central purchase of goods and services shall be coordinated through the efforts of the Treasurer.

- 3.12** To promote and incorporate, wherever possible, the requirements of the *Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11, as amended*, in procurement activities of the Township.
- 3.13** The Township shall acquire its goods, services and works through the application of the highest standards of business ethics.
- 3.14** Where applicable, acceptance of any supplier will be based on the following considerations: service, guarantee, reputation, availability, quality, expertise, qualifications, expedience, as well as price.
- 3.15** The Township may participate with other units of government or their agencies or public authorities in co-operative purchasing ventures or joint contracts if the requirements in 5.4, Co-operative Purchasing, are met.

4.0 Procurement Process Goals

The goals and objectives of the Township in the purchasing of goods and services are as follows:

- a. Establish clear objective specifications for all purchases.
- b. Identify potential sources for purchases.
- c. Recommend sole source justification in accordance with the policies.
- d. Select successful Bidders and suppliers in accordance with this Policy.
- e. Make recommendations to the Council with respect to the award of tenders as required by the policies and procedures.
- f. Designate persons authorized to approve expenditures and their expenditure limits within their departments.
- g. Review purchases upon delivery to ensure compliance with specifications.
- h. Comply with the approved purchasing policies and procedures of the Township.



5.0 Methods of Purchasing

All purchases made shall comply with all legislative requirements and trade agreements in effect. Purchases must have proper budget or Council approval prior to placing an order or awarding of bids. If a project is not included in the budget or is over budget, it must be approved by Council and a funding source must be specified.

General Purchases and Professional and Consulting Services			
Estimated Total Cost	Method of Procurement	Authority to Award	Council Approval
Up to \$25,000	Seek best pricing/value through appropriate informal process (i.e., Direct source, online, price lists, etc.)	Department Head, Authorized Delegates	No Included in approved budget
\$25,001 to \$50,000	3 or more Informal Quotes	Department Head, Authorized Delegates	No Information report to be provided to Council
\$50,001 to \$100,000	Formal Call for Bids (Invitation or Open Competition)	Department Head, Authorized Delegates and Treasurer or CAO Jointly	No Information report to be provided to Council



The Corporation of the Township of Huron-Kinloss

<p>\$100,001 and greater</p>	<p>Formal Call for Bids (Open Competition)</p>	<p>Department Head, Authorized Delegates and Treasurer or CAO Jointly</p>	<p>Yes Council approval required by by-law</p>
-------------------------------------	--	---	--

The above limits apply only to new items or replacements, but not to emergency repairs caused by breakdowns.

- Non-Competitive Procurement is only permitted as outlined in Section 6, Non-Competitive Procurement (Exemptions)
- Transfer of expenditures as outlined in Section 10, Authorities, may be used prior to considering the funds available for placing an order or calling for bids

5.1 Informal Quotes

Bid documents and specifications (as applicable) can be issued electronically and are not required to be posted on the Township’s Bids & Tenders webpage. All firms requested to submit a quotation shall be allowed at least five (5) working days before the deadline of submitting their quotation. All requests for quotation shall include a day and time by which the quotation must be submitted to the Department Head.

Informal Bids must be submitted in writing and may be received electronically (email is acceptable).

5.2 Formal Call for Bids

A call for bids shall be issued in accordance with the purchase limits outlined in Table in Section 5.0, Methods of Purchasing, current legislation, and trade agreements.

Requests for Pre-Qualification may be used in conjunction with any of the types of requests for bids.



The specifications for the goods and services and terms of purchase will be established with sufficient detail to permit comparable bids to be made by suppliers. All formal calls for bids and the respective bid documents shall be posted on the Township's Bids and Tenders webpage.

Minimum Posting Periods for Formal Call for Bids		
Estimated Total Cost		Minimum Posting Period
Non-construction projects	Construction Projects	
Under \$300,000	Under \$8,000,000	14 days
Over \$300,000	Over \$8,000,000	28 days

All bid submissions shall be received in the manner specified in the bid document. Bid submissions remain sealed until the closing date and time. Late bids shall not be considered.

5.3 Types of Requests for Bids

5.3.1 Requests for Quotation (RFQ)

This is a competitive method of purchase generally used for a known product or service where detailed specifications are often used to determine compliance.

A sufficient number of suppliers shall be requested to submit bids on the specifications and terms of purchase so that at least three responsive bids are received, where practical.

The lowest compliant bid is intended to be selected where there are no exceptions.

5.3.2 Requests for Tender (RFT)

This is a competitive method of purchase which may include supplier or contractor pre-qualification.



The Corporation of the Township of Huron-Kinloss

The specifications and contract terms are detailed within the tender documents in such a degree that there is no prospect of negotiations between the parties. It is intended to accept the lowest priced compliant bid, as all the terms, conditions and specifications must be met by the Bidders.

5.3.3 Requests for Proposals (RFP)

This method of purchase involves the solicitation of proposals. In this method of purchase, some or all of the specifications and contract terms may not be finally determined with sufficient certainty to form the basis of a final contract before proposals are solicited and submitted, such as when innovative solutions are being sought. It may be expected there will be some variation in the final specification and contract terms among and between responsive proponents. The process may involve negotiations subsequent to the submission of proposals on any or all of the specifications, contract terms and price.

The bid documents must disclose the evaluation criteria and weights. Evaluation criteria shall be aligned with the needs of the Township to aim to provide the best value. Purchasing shall maintain a list of suggested evaluation criteria for assistance in formulating an evaluation method for use in an RFP. This may include but is not limited to factors such as qualifications and experience, strategy, approach, methodology, scheduling and past performance, facilities, equipment, pricing, life cycle costing, standardization of product and aspects that would support environmental procurement.

Evaluation of proposals shall be done based on the disclosed criteria, free of bias or preference, and shall be done by the same people in the same manner. Projects are intended to be awarded to the highest scoring compliant proposal where no exceptions are present.

5.3.4 Negotiated Requests for Proposals (N-RFP)

Negotiated Requests for Proposals are prepared as a regular RFP as above, however, the document must state the negotiation terms.

The process for Negotiated Requests for Proposals involves posting N- RFP documents, receiving and evaluating proposals as in a regular RFP process. The initial submissions are deemed non-binding. After the proposals are evaluated, a



The Corporation of the Township of Huron-Kinloss

short-list of vendors may be chosen to proceed and negotiations take place. A final submission of best and final offers occurs after negotiations are complete and these submissions are evaluated using the original evaluation process.

5.3.5 Request for Information (RFI)

This method is a pre-purchase activity that may be taken to gather general supplier/consultant or product information. It may be used when the Township is researching a contemplated need and has not yet determined what characteristics the ideal solution would have. Responses to RFI questions normally contribute to the final version of a subsequent call for bid document and may include targeted questions about the required output/acquisition, seeking combinations of industry leading practices, suggestions, expertise and even concerns and additional questions from the proponents.

Responses to an RFI will not pre-qualify a potential supplier/consultant and will not influence their chances of being the successful proponent on any subsequent opportunity. An RFI submission does not create any contractual obligation between the Township and the interested respondent.

5.4 Co-operative Purchasing

Co-operative purchasing is permissible and exempt from the requirements in Table in 8.0, Methods of Purchasing under the following circumstances:

5.4.1 The Procurement Exception Form in Schedule "D" shall be completed by the Department Head along with documentation identifying the method and results of the price comparison research which shows that the buyer group maintains the lowest price for a particular good or service.

5.4.2 The buying group must comply with the following cost restrictions:

5.4.2.1 - Up to \$25,000 - no restrictions

5.4.2.2 - \$25,001 to \$100,000, the co-operative group must comply with all legislative requirements and issue a formal request at least once every two years.



5.4.2.3 - Over \$100,000, the co-operative group must comply with all legislative requirements including CFTA and CETA and issue a formal request at least every two years. In addition, an information report must go to Council.

5.5 Awarding Projects on Formal Bids

5.5.1 The appropriate Authority to Award in accordance with Table 5.0, Methods of Purchasing, may award the project provided the goods and services were budgeted for and the lowest bid is being accepted.

Under normal circumstances, the lowest compliant bid or highest scoring compliant bid would be awarded. If the lowest compliant bid or highest scoring compliant bid is not recommended, the Procurement Exception Form in Schedule "D" shall be completed by the Department Head detailing the reasons why the bid is not being considered. CAO approval is required prior to awarding a bid where the lowest compliant bid or highest scoring compliant bid is not being recommended.

5.5.2 The Township's "Notice to all Contractors" respecting the Corporate Statement on Occupational Health and Safety (Schedule "A") shall accompany the letter to the successful Bidder confirming the awarding of the project.

5.5.3 The amount of any non-refundable fee, the deposit and performance bond or a letter of credit for all tenders shall be at the discretion of the Department Head.

5.5.4 Notwithstanding the provisions of this Policy, any tenders which are late, illegible, incomplete, unsigned, contain restrictions or alterations by the Bidder, contain insufficient deposit, or insufficient or no performance bond or security in the form requested, may be rejected.

5.5.5 For contracts where a performance bond is required, the deposit cheque of the successful Bidder and second low Bidder shall be retained by the Township until such time as the said performance bond has been supplied in a form satisfactory to the Township, and the contract agreement has been executed.

For contracts that do not require a performance bond, the deposit cheque of the successful Bidder shall be retained by the Township until such time as the goods or services have been received or completed to the satisfaction of the Township.



The Corporation of the Township of Huron-Kinloss

The cheque of the second low Bidder shall be retained until the agreement has been executed.

The deposit cheques of unsuccessful Bidders shall be returned to the Bidder's address as shown on the tender form as soon as is practical after the acceptance of the tenders.

5.5.6 If the successful Bidder fails to enter into a contract, or fails to perform the contract, or fails to provide the goods and/or services, the Department Head and/or the CAO may recommend that the tender shall be awarded to the second low Bidder or that the competition shall be cancelled. In either case, the deposit of the successful Bidder shall be forfeited.

5.5.7 The Department Head is responsible for issuing award and regret notices to all Bidders. The Department Head is also responsible for reporting the results to Council in accordance with the Table 5.0, Method of Purchasing and updating the Township's website as required.

6.0 Non-Competitive Procurement (Exemptions)

6.1 All Non-Competitive Contracts exceeding \$25,000 must be approved by the appropriate authorities prior to award as per the below table, unless resulting from an Emergency.

Non-Competitive Purchases		
Estimated Cost	Procurement Method	Authority to Award
Over \$25,000 to \$100,000	Negotiation	CAO & Treasurer Jointly
Over \$100,000	Negotiation	Council

6.2 A competitive procurement process shall be used for procurements unless the conditions in 6.3, Exemptions, are met for a Non-Competitive Purchase.



6.3 Exemptions: The Township may procure Goods or Services by way of Non-Competitive Purchase based on one of the following exemptions (each an “Exemption”). The Procurement Exception Form in Schedule “D” shall be completed by the Department Head referencing the appropriate reason for exemption.

6.3.1 No Compliant Bids Received: If (i) no Bids were submitted or no suppliers requested participation; (ii) no Bids that conform to the essential requirements of the bid documentation were submitted; (iii) no suppliers satisfied the conditions for participation; or (iv) the submitted tenders were collusive, provided that the requirements of the tender documentation are not substantially modified; (*OQTCA, CFTA, CETA*)

6.3.2 Two or more identical low bids or only one bid received: If (i) two or more identical low bids were received; or (ii) only one bid was received in a call for bid process, negotiation is permitted

6.3.3 Only One Supplier: if the Goods or Services can be supplied only by a particular supplier and no reasonable alternative or substitute Goods or Services exist for any of the following reasons: (i) the requirement is for a work of art; (ii) the protection of patents, copyrights, or other exclusive rights; (iii) due to an absence of competition for technical reasons; (*OQTCA, CFTA, CETA*) (iv) the supply of Goods or Services is controlled by a supplier that is a statutory monopoly; (v) to ensure compatibility with existing Goods, or to maintain specialized Goods that must be maintained by the manufacturer of those Goods or its representative; (vi) work is to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work; (vii) work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor; (*CFTA*)

6.3.4 Additional Deliveries: for additional deliveries by the original supplier of Goods or Services that were not included in the initial procurement, if a change of supplier for such additional Goods or Services: (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and (ii) would cause significant inconvenience or substantial duplication of costs for the Township; (*CFTA, CETA*)



The Corporation of the Township of Huron-Kinloss

- 6.3.5 Where a contract has expired:** or will shortly expire, and unforeseeable circumstances have caused a delay in issuing a new call for bid document; (timeframe for extended contract should not exceed one year);
- 6.3.6 Commodity Market Goods:** for Goods purchased on a commodity market such as electricity, postal services, postage, water, fuel, natural gas, furnace oil; (OQTCA, CFTA, CETA)
- 6.3.7 Prototypes:** if the Township procures a prototype or a first Good or Service that is developed in the course of, and for, a particular contract for research, experiment, study, or original development. Original development of a first Good or Service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the Good or Service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs; (OQTCA, CFTA, CETA)
- 6.3.8 Exceptionally Advantageous Conditions:** Unusual Disposals: for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers; (OQTCA, CFTA, CETA)
- 6.3.9 Winner of Design Contest:** if a contract is awarded to a winner of a design contest provided that: (i) the contest has been organized in a manner that is consistent with this Policy, in particular relating to the publication of bid documents; and (ii) the participants are judged with a view to a design contract being awarded to a winner; (OQTCA, CFTA, CETA)
- 6.3.10 Confidential or Privileged Goods or Services:** if Goods or Services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest; (CFTA)
- 6.3.11 Emergency:** if strictly necessary, and for reasons of urgency brought about by events unforeseeable by the Township, the Goods or Services could not be



The Corporation of the Township of Huron-Kinloss

obtained in time using an open competitive process. An “Emergency” is an exceptional situation that could include:

- i. An imminent or actual danger to the life, health, or safety of any person;
- ii. An imminent or actual danger of injury to or destruction of real or personal property;
- iii. An imminent or actual unexpected interruption of a public service essential to the community;
- iv. An emergency as defined by the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9 and the Emergency Plan formulated there under by the Township; and
- v. An imminent or actual spill of a pollutant as contemplated by Part X (Spills) of the *Environmental Protection Act*.

7.0 Emergency Procedures

- 7.1** Notwithstanding, the provisions of this Policy may be disregarded for goods and services that may be required in the event of an emergency situation. Where the expenditure relating to the emergency is anticipated to exceed \$10,000, the Department Head must first obtain the approval of the Chief Administrative Officer or Delegate.
- 7.2** When the provisions of Section 7.1 are applied, the CAO shall advise Council of the nature of the emergency and the budgetary impact of the purchase and if necessary, the appropriate budget amendment process shall be initiated.

8.0 Contractor Performance Evaluation

A Department Head or Project Manager may choose to conduct a performance evaluation (see Schedule “C”) anytime during or after the completion of a contract. Performance evaluations are optional unless the awarded contractor is on probation.

- 8.1** If a contractor obtains a score of less than 65% on a performance evaluation, the Township may place the contractor on probation for a period of up to two years from



the date the contractor is given notice of the probation. Performance evaluations are mandatory for any contracts awarded to contractors on probation.

- 8.2** If a contractor on probation receives a score of less than 65% on a final performance evaluation for a contract, the Township may suspend the contractor for a period of up to two years from the date the suspension notice is given to the contractor. No bids received from the contractor during their suspension shall be opened or considered. The Township may also reject any bids received where the contractor intends to use a sub-contractor who has been placed on suspension.
- 8.3** Once the suspension period has ended, the contractor will be on probation for up to two years from the date of the end of the suspension. Bids from the contractor may be considered and the same conditions above apply during this probation period.
- 8.4** Within fifteen days of receipt of a performance evaluation, a contractor may provide a written request for a review of their evaluation. The Department Head and CAO may confirm or revise the performance evaluation and provide the result to the contractor in writing.

9.0 Exclusion of Bidders in Litigation

- 9.1** The Township may, in its absolute discretion, reject a bid or proposal submitted by a Bidder prior to or after a bid opening, if the Bidder:
- Is a party to litigation with the Township; or
 - Directly or indirectly, including by common ownership or control or otherwise, is related to a party to litigation with the Township; or
 - Intends to use a sub-contractor in respect of the specific project who is a party to litigation with the Township, or, who directly or indirectly, including by common ownership or control or otherwise, is related to a party to litigation with the Township.
- 9.2** For the purposes of this section, the phrase “party to litigation with the Township” includes cases in which the Bidder or prospective Bidder or any of the parties named above, have advised the Township in writing of their intention to commence litigation, or have commenced or have advised the Township of their intention to commence an arbitral proceeding against the Township.
- 9.3** Bids from any Bidder in any of the above circumstances shall be rejected as informal, irregular and non-compliant.



The Corporation of the Township of Huron-Kinloss

- 9.4** In determining whether or not to reject a bid under this section, the Township will consider whether the litigation is likely to affect the Bidder's ability to work with the Township, its consultants and representatives, and whether the Township's experience with the Bidder in the matter giving rise to the litigation indicates that the Township is likely to incur increased staff or legal costs in the administration of the Contract if it awarded to the Bidder.
- 9.5** All bid documents issued by the Township pursuant to this policy shall contain a statement to the effect described in 9.1, 9.2, and 9.3 above.

10.0 Authorities (Transfer of Expenditures)

Where it appears additional funds will be required to complete a project approved in the budget the transfer of funds may be made under the following circumstances.

- 10.1** Where funds appear to be available within the budget appropriation for the department, the transfer of funds may be made if the transfer does not conflict with Council's policies and objectives.
- 10.1.1** Department Head - The Department Head may authorize the transfer to a limit of \$25,000 and report same to the CAO and the Treasurer.
 - 10.1.2** Chief Administrative Officer - The CAO may authorize the transfer to a limit of \$100,000 and report same to the Treasurer.
 - 10.1.3** Council - Council may authorize any transfers in excess of \$100,001.
- 10.2** Transfers and over expenditures which would affect the total limit of the departmental operating or capital budget must be submitted for Council approval by the respective Department Head and the CAO.

11.0 Payments and Reports

- 11.1** Each Department shall approve payment of all invoices representing charges to that Department indicating the account distribution of the expenditure.
- 11.1.1** The Department Head or Delegate before approving the payment, shall ensure that the following have been checked and found correct:
- The proper authorized staff members have approved the invoice
 - Quantity and quality of goods received are as invoiced
 - Pricing is correct
 - Calculations are correct



11.2 The Treasurer may pay all accounts for routine purchases of goods and services within the limit of authority of the Department Head.

11.3 Upon approval of the Department Head, the Treasurer may pay all accounts for properly authorized and budgeted expenditures in addition to those outlined as routine without the prior approval of Council.

11.4 The Treasurer shall make available regularly a budget report to Council.

12.0 Purchase of Used or Demo Fleet Equipment

Department Heads, in consultation with the CAO are authorized to purchase used or demo fleet equipment that is sold by other municipalities by private sale or public auction; sold through a vendor licensed to sell used equipment; by sealed bid; or by negotiation providing that:

12.1 The equipment meets or exceeds the department equipment requirements.

12.2 The purchase of the equipment has been included in the annual capital budget for the department.

12.3 Department Heads are exempt from the Township's formal quotation/tender/RFP process when purchasing used or demo fleet equipment by any of the methods.

The Procurement Exception Form in Schedule "D" shall be completed by the Department Head along with analysis or justification that is documented in writing that it is fiscally responsible to purchase a used or demo piece of equipment rather than purchase new.

13.0 On-Going Services and Contracts

This section is intended to deal with on-going services and contracts the Township has with various suppliers that continue over multiple years. Any initial contract or agreement for services must follow the purchasing method called for in Section 5.0, Methods of Purchasing.

13.1 Some services have annual renewals and at the time of renewal, the Department Head may recommend that the services be tendered, that quotations be obtained, or that a new renewal contract be negotiated.



The Corporation of the Township of Huron-Kinloss

- 13.2** The Department Head shall, every five years, and sooner if necessary, recommend to Council that the service be continued, or that it be tendered, quotations obtained, or a new contract be negotiated.
- 13.3** The procurement method required in Section 5.0, Methods of Purchasing, shall be based on the estimated total cost if the contract is guaranteed over multiple years. If the contract includes provisions for the Township to terminate the contract, only the guaranteed amount is considered for determining the procurement method.

14.0 Insurance

14.1 Prior to contract execution, or where deemed appropriate by the Department, Purchasing or the Township's insurer, evidence of satisfactory insurance coverage must be obtained from the contractor in the form of a Certificate of Insurance.

14.2 The standard insurance minimums required of vendors are as follows:

\$5 million – Commercial general liability policy

\$5 million – Automobile liability policy

\$5 million – Professional liability and errors and omissions

14.3 Insurance minimums may be reduced for a project or vendor by CAO approval based on recommendation from Department Head indicating that corporate risk is minimal and a reduction is warranted. The Procurement Exception Form in Schedule "D" shall be completed by the Department Head detailing the reasons why the insurance minimums for a project should be reduced.

14.4 Additional insurance relevant to the type of project may be required.

14.5 The certificate of insurance must name the Township as an additional insured inclusive as a cross liability clause.

14.6 Workplace Safety and Insurance Board:

- i. The successful Bidder is responsible to provide a WSIB clearance certificate prior to starting the work.
- ii. If the Bidder considers themselves to be an independent operator and does not require a WSIB clearance certificate, application shall be made prior to the project starting for consideration by WSIB.



Bid documents must clearly indicate the types and amount of insurance Bidders must hold.

15.0 Prohibitions

15.1 No employee, elected official, Committee Member or Member of Council of the Township shall purchase goods or services, request quotes, proposals or tenders, or enter into contracts and agreement on behalf of the Township except in accordance with the provisions of this Policy.

15.2 No contract or purchase shall be divided to avoid the provisions of this Policy.

15.3 No individual involved in procurement shall circumvent the requirements of this Policy including, but not limited to, biasing specifications; providing advantages, differing or additional information to one or more plan takers that is not shared with all plan takers (unless information is shared at a mandatory meeting that is not attended by all) or scheduling events to prevent suppliers from meeting requirements.

16.0 Records Retention

Bid submissions must be kept in compliance with the Township's Retention Policy.

17.0 Ultra Vires

Any Provincial Statutes or Regulations thereof will supersede and take precedence over this Policy.



Schedule "A"

NOTICE TO ALL CONTRACTORS

CORPORATE STATEMENT

OCCUPATIONAL HEALTH AND SAFETY

The Corporation of the Township of Huron-Kinloss, in the County of Bruce, is committed to ensuring that a high standard of health and safety is provided and maintained for all employees, visitors, guests, contractors, agents and others on our premises.

Accordingly, a corporate health and safety policy and procedure manual has been adopted and implemented and shall be adhered to.

ALL CONTRACTORS SHALL:

- Demonstrate establishment and maintenance of a health and safety program with objectives and standards consistent with applicable legislation and with The Corporation of the Township of Huron-Kinloss health and safety policies and requirements.
- Submit a copy of a Workers Safety and Insurance Board (WSIB) clearance certificate.
- Include health and safety provisions in their management systems to reach and maintain consistently a high level of health and safety.
- Ensure that workers in their employ are aware of hazardous substances that may be in use at their place of work and wear appropriate personal protective equipment as may be required.
- Upon request at any time from award to completion of contract, submit proof of fulfillment of above responsibilities.

Your co-operation and assistance in this matter is appreciated and vital to the Health and Safety of all.



Schedule "B"

Goods and Services "Exempt" from Provisions of the Procurement Policy

1. Petty Cash items up to \$300
2. The purchase of items/services under \$500.00; for one time or occasional purchases, not ongoing requirements
3. Election Materials: The Clerk has the authority to purchase goods, services and equipment considered necessary or advisable to carry out the requirements of the Municipal Elections Act, R.S.O., 1996. The Clerk shall whenever possible be guided by the provisions of this Policy.
4. Training and Education
 - a) Books
 - b) Conferences
 - c) Courses
 - d) Conventions
 - e) Memberships
 - f) Seminars
 - g) Periodicals
 - h) Magazines
 - i) Staff training
 - j) Staff development
 - k) Staff workshops
 - l) Subscriptions
5. Refundable Employee and Council/Committee Expenses
 - a) Meal allowances
 - b) Travel & Hotel accommodation
 - c) Mileage
 - d) Miscellaneous – Non-Travel
6. Employer's General Expenses
 - a) Payroll deduction remittances



The Corporation of the Township of Huron-Kinloss

- b) Licenses (vehicles, elevators, radios, etc.)
- c) Debenture payments
- d) Grants to agencies/donations
- e) Payments of damages
- f) Tax remittances
- g) Charges to/from other Government or Crown Corporations
- h) Employee wages
- i) Group benefits
- j) Freight charges

7. Professional and Special Services

- a) Committee fees
- b) Honoraria
- c) Arbitrators
- d) Legal settlements
- e) Temporary Help
- f) Courier Charges
- g) Legal fees
- h) Hiring of consultants or contractors to complete project deficiencies where funds to complete the work are being drawn from deposits
- i) Insurance premiums
- j) Ongoing maintenance for existing computer hardware and software
- k) Realty services regarding lease, acquisition, demolition, sale, disposal or appraisal of land
- l) Financial services respecting the management of government financial assets and liabilities including ancillary advisory and information services, whether or not delivered by a financial institution

8. Utilities/Other

- a) Postage
- b) Water and sewer charges
- c) Hydro
- d) Cable television charges
- e) Telephone, internet
- f) Natural gas/propane
- g) Refunds and rebates to ratepayers



The Corporation of the Township of Huron-Kinloss

9. Advertising

- a) Classified advertising such as help wanted, for sales, etc.
- b) Display advertising such as statutory and event notices
- c) Public tender advertising
- d) Webhosting and maintenance services

10. General Exclusions

- a) Goods or services financed primarily from donations that require the procurement to be conducted in a manner inconsistent with this policy.
- b) Procurements by the Township on behalf of an entity not covered by this policy.
- c) Procurements under a commercial agreement between the Township and an entity not covered by this policy.
- d) Acquisition of goods or services for the purpose of commercial sale or re-sale by the Township.



Schedule "C"

Contractor Performance Evaluation

Contractor:

Contract Number:

Evaluator:

Date:

Evaluation Period:

Performance Levels

1. Did not meet expectations
2. Met expectations
3. Exceeded expectations

Evaluation Criteria	Rating			Comments
Complies with policies and procedures, all applicable laws and regulations, and uses safe work practices	1	2	3	
Provides services in a manner consistent with professional standards	1	2	3	
Provides qualified personnel and adheres to personnel policies and procedures	1	2	3	
Displays respect for residents and Township property	1	2	3	
Meets specifications as per the contract	1	2	3	



The Corporation of the Township of Huron-Kinloss

Provides quality goods/services	1	2	3	
Goods/Services were delivered on time as per the contract	1	2	3	
Cost does not exceed original bid or negotiated amount	1	2	3	
Contractor responded to questions/concerns in a timely manner	1	2	3	
Contractor's resolution of issues was appropriate	1	2	3	
Communicates appropriate information to employees and management	1	2	3	
Customer support from contractor was acceptable	1	2	3	
Provides completed paperwork within defined time frame	1	2	3	
Total Score				

Any criteria evaluated at a level 1 must include evaluator comments.

A total score of less than 25 will result in the contractor failing the performance review and the contractor will be placed on probation or suspended as per the Township's Purchasing Policy.

Evaluator Signature:



Schedule "D"

Procurement Exception Form

This form is to document purchases which are exempt from the requirements in Section 5 of the Township's Purchasing Policy, Methods of Purchasing, and to record the appropriate reasoning for the exemption. The exemption claimed below must meet the requirements specified in Section 6 of the Purchasing Policy, Non-Competitive Procurement with additional information attached as necessary.

Project Name & Number: _____

Section in Purchasing Policy and Reason(s) for Exemption:

Please provide additional details below or provide attachments if necessary.

Treasurer Comments: _____

Name of Department Head or Authorized Delegate

Signature

Date

Signature (Treasurer)

Date

Signature (Chief Administrative Officer)

Date

Council Resolution # (Over \$100,000): _____