



## MUNICIPALITY OF THE COUNTY OF PICTOU PROCUREMENT POLICY

### Purpose and Objectives

1. To provide guidelines for the procurement of all goods, services, construction and facilities for the Municipality of the County of Pictou based on sound management and public procurement practices. Procurement methods shall be open, fair, transparent and consistent, while being both efficient and effective; procurement methods should reflect the need to make timely decisions and make best use of staff time to reach defensible procurement decisions.
2. The Municipality of the County of Pictou ("Municipality") is committed to:
  - a. Providing for the procurement of goods, services, construction and facilities in a fair, open, consistent, and transparent manner resulting in best value
  - b. Encouraging competition, innovative ideas and solutions, while respecting all Legislative and trade agreement obligations
  - c. Promoting sustainable procurement in procurement decisions, including identifying and exploring opportunities to work with and support social enterprises and businesses that are owned by and who employ under-represented populations
  - d. Ensuring that qualified suppliers have equal opportunity to bid on the Municipality's procurement activity
  - e. Being accountable for procurement decisions
  - f. Ensuring that procurement decisions contribute to the goal of net-zero municipal operations by 2030.

### Definitions

3. *Alternative Procurement Circumstances* means "the circumstances detailed in Appendix 1 where procurement activity may be carried on, absent a public tender".
4. *Alternative Procurement Practice* means "procurement activity conducted without a public tender process in a situation where Alternative Procurement Circumstances exist."

5. *Atlantic Standard Terms & Conditions* means “Standard instructions that support public tenders issued by the four Atlantic Provinces for goods and services. Supplements may be added if and when required”.
6. *Best Value* means “Evaluating bids not only on purchase price and life cycle cost considerations, but also taking into account items such as environmental considerations (including greenhouse gas emissions) and social considerations, delivery, servicing, and the capacity of the supplier to meet other criteria as stated in the tender documents.”
7. *Bid* means “A supplier response to a public tender notice to provide goods, services, construction or facilities.”
8. *Construction* means “The construction, reconstruction, demolition, repair, or renovation of a building, structure, road or other engineering or architectural work, excluding the professional consulting services related to the construction contract unless they are included in the procurement.
9. *Construction Contract Guidelines* means “Standard instructions developed in consultation with the Construction Association of Nova Scotia that support construction tenders.”
10. *Goods* means “Materials, furniture, merchandise, equipment, stationery, and other supplies required by the Municipality for the transaction of its business and affairs and includes services that are incidental to the provision of such supplies.
11. *Facilities (also referred to as Building Leases)* means “All building lease requirements covering the conveyance of the right to use tangible building property for a specified period of time in return for rent.”
12. *Procurement Activity* means “The acquisition of all goods, services, construction, or facilities procured by purchase, contract, lease, or long-term rental.”
13. *Procurement Value* means “The value of the total contract excluding taxes but including all options whether exercised or not. For Facilities this value is determined by the monthly lease/rent times the term of the contract.”
14. *Procurement Web Portal* means “The public website maintained by the Province of Nova Scotia where all public tender notices are posted.”
15. *Public Advertisement* means “Advertising a public tender notice on the procurement web portal.”
16. *Public Procurement Act (PPA)* means the *Public Procurement Act*, S.N.S. 2011, c.12, as amended from time to time.

17. *Public Tender means* “Procurement for goods, services, construction, or facilities obtained through public advertisement. (See appendix 2 for an outline of the various tools that can be used for public tender.)”
18. *Public Tender Notice means* “Notice of intended procurement for goods, services, construction, or facilities obtained through public advertisement.”
19. *Services means* “services required by the Municipality for the transaction of its business and affairs, excluding services provided by an employee through a personal services contract.”
20. *Standing Offer means* “A standing offer is a contractual arrangement with a supplier to provide certain goods or services on an ‘as required’ basis, during a particular period of time, at a predetermined price or discount, generally within a predefined dollar limit.”
21. *Supplier means* “a person carrying on the business of providing goods, services, construction and facilities.”
22. *Sustainable Procurement means* “Sustainable Procurement involves taking a holistic approach to obtain best value. This will be done by integrating the following considerations in the procurement process:
  - a. Environmental considerations: e.g. Green House Gas Reduction, Waste Reduction, Toxic Use Reduction
  - b. Economic considerations: e.g. Life Cycle Cost, Fiscal Responsibility, Support for the Local Economy
  - c. Social considerations: e.g. Employee Health and Safety, Inclusiveness and Fair Wage, Health Promotion.

### **Application**

23. This policy applies to all procurement activity of the Municipality.
24. The Chief Administrative Officer is responsible for ensuring compliance with this policy.
25. All Municipality personnel who have responsibility for the procurement of goods, services, construction, or facilities must adhere to this policy.

## Directives

26. *Low Value Procurement* means procurement for:
- a. Goods valued up to \$25,000
  - b. Services valued up to \$50,000
  - c. Facilities valued up to \$50,000
  - d. Construction valued up to \$100,000
27. Except when using an alternative procurement practice, accessing a publicly tendered standing offer, or as otherwise provided below, for all low value procurement activity, with a procurement value as outlined above (excluding taxes), the Municipality's personnel are expected to, as far as practicable, attempt to obtain at least three quotes and award to the supplier offering best value.
- a. Purchases of goods and services under \$1000 do not require three quotes. They should be purchased under a standing offer if:
    - i. one exists; and
    - ii. it provides best value.
- Department heads must approve such purchases and appropriate documentation (e.g. receipts, invoices) must be kept.
28. When selecting the list of suppliers to be provided the opportunity to quote, the Municipality's personnel will make every effort to ensure a fair and open process is followed. While the Municipality's personnel are expected to invite only qualified suppliers, they are not to consistently invite bids from only one or a select group of suppliers. Invitations and bidding opportunities are to be equitably distributed among all potential bidders in an area, and all interested and qualified suppliers are to be evaluated on a consistent and equitable basis. Where increased competition is appropriate, the Municipality's personnel may choose to publicly tender for goods, services, construction or facilities that fall within the above thresholds.
29. *High Value Procurement* means procurement of:
- a. Goods valued at \$ 25,000 or greater
  - b. Services valued at \$ 50,000 or greater
  - c. Facilities valued at \$ 50,000 or greater
  - d. Construction valued at \$100,000 or greater
30. All procurement activity with a procurement value over the high value thresholds (excluding taxes) outlined above must be obtained through a public tender. See

appendix 2 of this Policy for an outline of some of the various tools that can be used for public tender.

- a. The only exception to this would be when the Municipality's personnel are using alternative procurement practice, or are accessing a publicly tendered standing offer.
- b. All public tender opportunities must be posted on the Province of Nova Scotia Procurement Web Portal.
- c. The Municipality's personnel may wish, where appropriate, to also advertise in local, provincial, or national media; however, there is no obligation to do so.
- d. In addition, a notice of tender opportunity may be sent to selected suppliers where required to ensure an adequate degree of competition.

### **Alternative Procurement Practices**

31. In order to balance the need for open, competitive process with the demands of urgent or specialized circumstances, alternative procurement circumstances have been developed. Where alternative procurement circumstances exist, alternative procurement activities may be used. Alternative procurement practices must be used only for the purposes intended and not to avoid competition or used to discriminate against specific suppliers. To ensure appropriate use, each circumstance must be documented by The Municipality personnel stating the rationale permitting the alternative procurement practice, and signed by the Chief Administrative Officer, or as otherwise indicated in Appendix 1. All documents must be filed and maintained for audit purposes. See Appendix 1 for a list of the alternative procurement circumstances, as well as further requirements on documentation.

### **Bid Opening, Evaluation, and Award**

#### **32. *Bid Opening***

- a. Bids are accepted in accordance with the closing time, date, and place stipulated in the bid request documents. Members of the public may receive the list of bidders electronically after bid opening.

#### **33. Bid Evaluation**

- a. All bids are subject to evaluation after opening and before award of contract. The bid request documents must clearly identify the requirements of the procurement, the evaluation method, evaluation criteria based on the

purpose and objectives of this policy, and the weights assigned to each criterion.

34. Award

- a. The winning bidder and contract award amount for all high value procurement activity must be posted on the Province of Nova Scotia's Procurement Web Portal.
- b. After contracts have been awarded, routine access to information at the vendors' request shall be provided in the following areas:
  - i. Bidders list
  - ii. Name of winning bidder
  - iii. Award price excluding taxes of the winning bidder
- c. Access to tender documents or other proprietary information is subject to the provisions of the *Municipal Government Act*, S.N.S. 1998, c.18, as amended, Part XX Freedom of Information and Protection of Privacy.

35. Supplier Debriefing

- a. At the request of a supplier who submitted a bid, The Municipality's personnel will conduct a supplier debriefing session to provide feedback on the evaluation of the public tender. At this session:
  - i. Suppliers can find out how their proposal scored against published criteria
  - ii. obtain comments on their bid, and
  - iii. gather information on how future bids may be improved
  - iv. Bids are not compared to others, nor will information on other bids be provided.

36. Supplier Complaint Process (SCP)

- a. When a supplier is not satisfied with the information provided in a supplier debriefing, the supplier may file a complaint in accordance with the Supplier Complaint Process as set out in the *Public Procurement Act*. The SCP is not a dispute resolution process, but rather is intended to handle supplier complaints and to improve faulty or misleading procurement processes. The SCP is an integral part of a fair and open procurement policy.

## **Fair Treatment for Nova Scotia Suppliers**

37. Based on the principle of best value for the Municipality and when deemed to be in the Municipality's best interest, the Municipality's personnel may apply a preference for goods valued up to \$25,000 that are manufactured or produced in Nova Scotia.
38. The final decision to apply a preference to a Nova Scotia supplier shall be approved by the Chief Administrative Officer.
39. Municipality personnel may also choose to apply a Nova Scotia preference or restrict the receipt of quotations at or below the low value procurement thresholds to Nova Scotia suppliers.
40. Any decision made by The Municipality personnel should be based on budget considerations, and shall be approved by the Chief Administrative Officer.
41. At or below the low value procurement thresholds, the Municipality's personnel may give preference to purchasing goods, services, construction and facilities from local businesses in accordance with the following:
  - a. In evaluating which goods or services offer best value to the Municipality, the Municipality may apply a preference of 5% to the price offered by a local business as compared with non-local businesses, such that the price offered by the local business is adjusted lower by 5% for the purposes of evaluating which goods or services offer best value.
  - b. All requests for quotations and notices of public tender for these low value procurements must state that a local preference applies to the procurement.

## **Other Considerations**

42. Cooperative Procurement
  - a. The Municipality's personnel are encouraged to look for opportunities to collaborate with government agencies when the arrangement may result in overall cost savings or other substantial advantages. For example, joint procurement may be appropriate to procure commonly used goods, services, fuel oil, natural gas, telecommunications, etc.
43. Standing Offers
  - b. The Municipality personnel may access all Province of Nova Scotia standing offers, as well as any standing offer established through the Procurement Advisory Group for the Province should the Municipality's personnel wish to make use of the savings opportunities.

## Obligations under the *Public Procurement Act*

44. In addition to the areas already covered by this Policy, the following are additional obligations of the *Public Procurement Act* that the Municipality personnel are required to adhere to with their Procurement practices:
- a. Terms and Conditions
    - i. Every public tender notice must include or have attached the terms and conditions that govern the purchase of goods, services, construction, or facilities. The terms and conditions of every public tender notice must be consistent with the Atlantic Standard Terms and Conditions for the procurement of goods, services, or facilities and the Construction Contract Guidelines developed in collaboration with the Construction Association of Nova Scotia for the procurement of construction.
  - b. Posting Tender Notices and Awards
    - ii. All opportunities subject to a public tender must be advertised on the Province of Nova Scotia Procurement Web Portal. The Municipality personnel must also post on the Procurement Web Portal the name of the successful bidder for the public tender and the contract amount awarded.
  - c. Code of Ethics
    - iii. The Municipality personnel and Council must ensure their conduct in relation to procurement activity is consistent with the “duties of public sector entity employees” in the *Public Procurement Act*. This includes a request for removal from a procurement activity when a personal conflict of interest is perceived.
  - d. Other
    - iv. Policy Posting
      - 1. The Municipality’s personnel will ensure this policy is posted on the Municipality’s web site.
    - v. Supplier Development Activities
      - 1. The Municipality personnel will make every attempt where appropriate to participate in vendor outreach activities as requested by the Procurement Governance Secretariat.



vii Regulations

1. The Municipality personnel will make sure that procurement practices remain consistent with any regulations that are adopted under the *Public Procurement Act*.

**Repeal**

45. All former policies with respect to procurement are hereby repealed.

## APPENDIX 1

### **1. *Alternative Procurement Approval, Consultation, and Reporting Process***

- a. Only those holding the appropriate role/position within the Municipality may delegate signing authority.
- b. *Low Value:*
  - i. The Chief Administrative Officer may delegate signing authority for low value alternative procurement practice transactions to the head of a given business area. No further approvals will be necessary.
  - ii. The Chief Administrative Officer will ensure persons with delegated signing authority will be held accountable for their actions and that all procurement activities by the Municipality's personnel are properly documented and filed for follow up and audit.
  - iii. The Chief Administrative Officer shall remain accountable for the proper use of alternative procurement practices.
- c. *High Value:*
  - i. The Municipality personnel wishing to make use of a high value alternative procurement practice (with the exception of an emergency) must consult with the Chief Administrative Officer to obtain his or her approval and identify the most appropriate means by which to proceed.
  - ii. If in agreement, the Chief Administrative Officer may direct the Municipality's personnel to proceed with the procurement.
  - iii. The Chief Administrative Officer may wish to confer with provincial government procurement officials for discussion, validation, and/or alternative options.
  - iv. The Chief Administrative Officer may delegate signing authority for high value alternative procurement transactions to an Acting Chief Administrative Officer in his or her absence. All appropriate documentation will be maintained on file for audit purposes.
  - v. The Chief Administrative Officer will ensure persons with delegated signing authority will be held accountable for their actions. The Chief Administrative Officer shall remain accountable for the proper use of alternative procurement practices.

## **Alternative Procurement Circumstances**

### **2. *No Threshold Restrictions***

- a. The Municipality's personnel may use alternative procurement practices for the procurement of goods, services, construction or facilities, with no threshold restrictions in the following circumstances:
  - i. Where an unforeseeable situation of urgency exists and the goods, services, or construction cannot be obtained in time by means of open procurement procedures. The Municipality's personnel must ensure inadequate planning does not lead to inappropriate use of this exemption.
  - ii. Where goods or consulting 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, cause economic disruption, or otherwise be contrary to the public interest.
  - iii. Where compliance with the open tendering provisions set out in this Policy would interfere with the Municipality's ability to maintain security or order, or to protect human, animal, or plant life or health.
  - iv. In the absence of compliant tenders in response to an open or selective tender.
  - v. For the procurement of goods intended for resale to the public.
  - vi. For the procurement from philanthropic institutions, prison labour, persons with disabilities, sheltered workshop programs, or through employment equity programs.
  - vii. For the procurement from a public body or a non-profit organization.
  - viii. For the procurement of services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation.
  - ix. Procurement of services that in the Province of Nova Scotia may, by legislation or regulation, be provided only by any of the following licenses professional: medical doctors, dentists, nurses, pharmacists, veterinarians, engineers, land surveyors, architects, accountants, lawyers and notaries.
  - x. Where construction materials are to be purchased and it can be demonstrated that transportation costs or technical considerations impose geographic limits on the available supply base, specifically in the case of sand, stone, gravel, asphalt, compound and pre-mixed concrete for use in the construction or repair of roads.

### 3. *One Supplier*

- a. Where only one supplier is able to meet the requirements of a procurement, the Municipality's personnel may use alternative procurement practices for the procurement of goods, services, construction or as follows:
  - i. To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licenses, copyright, and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative.
  - ii. Where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists.
  - iii. For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly.
  - iv. For the purchase of goods on a commodity market.
  - v. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor.
  - vi. For work 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. For the procurement of a prototype or a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases.
  - viii. For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.
  - ix. For the procurement of original works of art.
  - x. For the procurement of subscriptions to newspapers, magazines, or other periodicals.
  - xi. For the procurement of real property.

### **Threshold Restrictions**

4. The Municipality's personnel may use alternative procurement practices up to the high value thresholds of this Policy in the following circumstances:
  - a. For the procurement of goods or services for the purpose of evaluating or piloting new or innovative technology with demonstrated environmental, economic, or social benefits when compared to conventional technology, but not for any subsequent purchases.

- b. For procurement that fosters the development of minority businesses.

## APPENDIX 2

1. Below is an outline of some of the various tools available for use when issuing a public tender:
  - a. *Request for Proposal (RFP)*
    - i. Used when a supplier is invited to propose a solution to a problem, requirement, or objective.
    - ii. Suppliers are requested to submit detailed proposals (bids) in accordance with predefined evaluation criteria.
    - iii. The selection of the successful proposal is based on the effectiveness, value, and price of the proposed solution.
    - iv. Negotiations with suppliers may be required to finalize any aspect of the requirement.
  - b. *Request for Construction (RFC)*
    - i. Used to publicly tender for a construction, reconstruction, demolition, remediation, repair, or renovation of a building, structure, road, bridge, or other engineering or architectural work.
    - ii. When a supplier is invited to bid on a construction project the tender documents usually contain a set of terms and conditions and separate bid form that apply to that specific project.
    - iii. Suppliers are requested to submit a response (bid) in accordance with predefined criteria.
    - iv. The selection of the successful proposal is based on a number of factors as described in the tender documents.
    - v. A request for construction usually does not include professional consulting services related to the construction contract, unless they are included in the specifications.
  - c. *Request for Quotation (RFQ)*
    - i. A request for quotation on goods or products with a minimum specification. Award is usually made based on the lowest price meeting the specification. An RFQ does not normally, but may sometimes, include evaluation criteria.

d. *Request for Standing Offer (RSO)*

- i. A public tender to provide commonly used goods or services. The term of the standing offer can vary in duration but will be clearly defined in the tender documents. RSO's may include evaluation criteria depending on the requirement.

e. *Request for Expression of Interest (REI)*

- i. The Request for the Expression of Interest is similar to the Request for Proposal and is sometimes referred to as a Pre-Qualification, where suppliers are invited to propose a solution to a problem.
- ii. The REI, however, is only the first stage in the procurement process. Bidders responding to the REI will be short listed according to their scoring in the evaluation process.
- iii. The short listed firms will then be invited to respond to a subsequent Request for Proposal. A REI does not normally include pricing as price is a key evaluation criteria used in the second stage RFP process.