

The Corporation of the Township of Hornepayne
By-Law No. 1636

Being a By-Law to establish the authority and set out the methods by which Goods, Services, Equipment or Construction will be purchased and disposed of for the Township of Hornepayne.


WHEREAS Section 270 of the *Municipal Act, 2001* imposes upon Municipalities the obligation to adopt policies with respect to procurement of goods and services.

THEREFORE BE IT ENACTED by the Council of the Corporation of the Township of Hornepayne that:

1. Any previous Township of Hornepayne Procurement Policies are hereby rescinded.
2. Schedule "A" and Appendices "I", "II", "III" & "IV" form an integral part of this By-Law.
3. That the Mayor and the CAO/Clerk or Deputy Clerk are hereby authorized to sign this By-Law and to affix the corporate seal thereto.
4. This By-Law comes into force and takes effect upon passage.

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

Read a third time and finally passed this 7th day of March, 2018.



Presiding Officer

Clerk

Schedule "A" to
By-Law No. 1636

1. SHORT TITLE

1.1. This By-Law may be cited as the "Procurement By-Law".

2. POLICY STATEMENT

2.1. The procedures in this By-Law shall be followed to award a contract or to recommend to Council that a contract be awarded.

2.2. The Treasurer shall be responsible for the execution of this policy.

2.3. Department Heads or those designated by Resolution as Department Heads shall be responsible for the purchase of goods and services.

2.4. The CAO/Clerk has the authority to provide additional restriction concerning procurement where such action is considered necessary and in the best interest of the Township.

2.5. It shall be the policy of the Corporation to ensure a fair purchasing policy, which is easy to manage and control.

3. PURPOSE

3.1. The purposes, goal and objectives of this By-Law and each of the methods of procurement authorized are:

- i. to encourage fair and open competition among suppliers;
- ii. to allow opportunity for maximizing savings;
- iii. to ensure service and product delivery, quality, efficiency and effectiveness;
- iv. to ensure accountability and transparency while protecting the financial interest of the Township of Hornepayne and its ratepayers;
- v. to attempt to reduce the amount of solid waste requiring disposal through the purchase of environmentally responsible goods and services, and,
- vi. to provide a clear process to staff and council for provision of procurement services.

4. DEFINITIONS

"Agreement" means a formal written legal agreement or contract for the supply of goods, service, equipment or construction.

"Award", "Awarded" and "Awarding" shall mean authorization to proceed with the purchase of Goods, Services, Equipment or Construction from a chosen supplier.

"Acquisition" shall mean the process of obtaining goods, services, or equipment.

"Approval" shall mean authorization to proceed with the purchase or disposal of goods, services, equipment and/or construction.

"Best Value" shall not be limited to the lowest price but shall be a combination of price and quality. Such determination shall be left up to the discretion of the Department Heads.

"Bid" shall mean an offer or submission from a supplier in response to a competitive bid, which may be subject to acceptance or rejection.

"Bid Bond", "Bid Deposit" means the form of security required by the term and conditions of a Request for Proposal documentation to guarantee that the successful bidder enters into a contract with the Corporation of the Township of Hornepayne.

"Bidder" shall refer to a person, corporation or other entity that responds to, or intends to respond to, a competitive bid.

"Blanket Purchase Contract" means any contract for the purchase of goods and services, which will be required frequently, but where the exact quantity of goods and/or services required may not be precisely known or the time during which the goods and/or services are to be delivered may not be precisely determined.

"CAO" means any person appointed by the Corporation of the Township of Hornepayne to fulfill the statutory requirements of the Chief Administrative Officer under the *Municipal Act, 2001*.

"Capital Project" shall refer to a project that has been budgeted within the annual Capital Budget or if not budgeted, shall refer to projects that would normally appear within the capital expenditures of the Municipality.

"Clerk" means any person appointed by the Corporation of the Township of Hornepayne to fulfill the statutory requirements of the Clerk under the *Municipal Act, 2001*.

"Committee" shall refer to the authorizing body (as appointed by Council) that provides recommendation prior to seeking Council approval.

"Competitive Bid" shall refer to a formal request for bids that may be in the form of a Request for Proposal/Request for Solutions, Request for Expressions of Interest, Request for Information, Request for Quotation or Request for Tender as further defined in this section.

"Conflict of Interest" refers to a situation in which private interests or personal considerations of officers and/or staff members come into conflict, or appear to come into conflict, with the best interest of the Corporation. It includes using an employee's position, confidential information or corporate time, material, or facilities for private gain or advancement or the expectation of private gain or advancement. A conflict may occur when an interest benefits any member of the employee's family, friends, or business associates.

"Construction" shall mean a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, soil investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the

construction, and the installation and repair or fixtures or a building, structure or other civil engineering design or architectural work but does not include legislated or regulated service related to the construction contract unless they are included in the specifications for the procurement.

"Consultant" shall refer to a person or entity that under agreement, other than an employment agreement, provides expert or strategic advice and related services. Consulting services do not include professional service provided by licensed professionals such as legal, and labor relations services.

"Contract" means a legal binding agreement between two or more parties that creates an obligation to provide defined goods and/or perform defined services.

"Contract Record" shall refer to a document, which summarizes the goods and/or services to be purchased.

"Corporation" shall mean the Corporation of the Township of Hornepayne.

"Council" shall mean the Council of the Corporation of the Township of Hornepayne or its successors.

"Council Approved Budgets" shall mean Council approved Municipal budgets including authorized revisions, or where applicable, Council approved budgets of Local Board or Committees to which this By-Law applies.

"Department Head(s)" shall refer to anyone who has responsibility for an annual budget or accountable for the department and service assigned to each section thereof.

"Disposal" shall mean the selling, trading, assigning and/or scrapping of surplus assets or assets no longer required by the Municipality.

"Emergency" shall mean any situation where the immediate acquisition of goods or services is essential to prevent serious delays, injury, damage, risk or to restore or maintain a required service.

"Immediate Family Member" shall mean a spouse, common-law spouse, same-sex partner, child, step-child, son-in-law, daughter-in-law, father, mother, father-in-law and mother-in-law.

"In House Bids" shall refer to bids submitted by internal staff in which they compete with external entities for procurement opportunities.

"Local Board" shall mean a Committee of many individuals appointed by Municipal Council to a Board or Committee, in accordance with the *Municipal Act 2001, S.O. 2001, Chapter 25*.

"Municipality" shall mean the Corporation of the Township of Hornepayne.

"Procurement Process" shall refer to the process in which goods and/or services are obtained.

"Request for Expression of Interest" or "REOI" shall refer to a process used to determine supplier interest in a proposed procurement. It may be issued simultaneously with a Request for Qualifications when the proposed procurement is well defined and the purchaser has clear expectations for the procurement.

"Request for Information" or "RFI" shall refer to a process to determine or collect written information about the capabilities of various suppliers.

"Request for Proposal"/ "Request for Solution" or "RFP"/ "RFS" means a process where a need or problem is identified, but the method by which it will be achieved is not prescribed at the outset. This process allows prospective suppliers to propose solutions or methods to best arrive at the desired result.

"Request for Qualifications" or "RFQUAL" means a request for list of qualified suppliers and firms who have an interest in providing services to the Council.

"Request for Quotation" or "RFQ" means a request for prices on specific goods and/or services from selected suppliers, which are submitted in writing, or as specified in the Request for Quotation.

"Request for Tender" or "RFT" means a request for sealed bids which contain an offer in writing to execute some specified services, or to supply certain specific goods, at a certain price, in response to a publicly advertised request for bids.

"Scrap" shall refer to Municipal assets that no longer have the ability to function for their original design in their current state and have minimal economic value other than primarily for recycling value.

"Total Acquisition Costs" Shall mean the sum of all costs, including such matters as purchase price, all taxes warranties, local service facilities, life cycle costs, inventory carrying costs, operating and disposal costs incurred for determining the lowest acceptable bid meeting specifications.

"Treasurer" means any person appointed by the Corporation of the Township of Hornepayne to fulfill the statutory requirements of the Treasurer under the *Municipal Act, 2001*.

5. GENERAL PROVISIONS

5.1. APPLICATION

- 5.1.1.** The procedures in this By-Law shall be followed to award a contract or to recommend to Council that a contract be awarded.
- 5.1.2.** Subject to Section 8.1 the CAO/Clerk may purchase or contract for the goods and services listed in Appendix "II" to this By-Law without following the procedures set out herein.
- 5.1.3.** The purchase of goods and services listed in Appendix "II" to this By-Law may be made provided that sufficient funds are available and identified in appropriate accounts within Council Approved Budgets.
- 5.1.4.** All Municipally governed boards and corporations are bound by this By-Law and this By-Law shall apply with necessary modification to allow appropriate staff authority to execute the policies within the By-Law.
- 5.1.5.** The CAO/Clerk may continue to use certain firms that are providing existing services to the Township of Hornepayne at his/her discretion, and where it is reasonable to do so.

- 5.1.6. Where possible, we will support our local businesses through the purchasing of goods and services.

5.2. TOTAL ACQUISITION COST

- 5.2.1. Whereas this By-Law prescribes dollar limits, the contract amount shall be the estimated total acquisition cost, less any rebates, and not including sales taxes.

5.3. CONFLICTS OF INTEREST

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

- i. immediately disclose the interest and the general nature thereof to Council;
- ii. not take part in the award of the contract; and,
- iii. not attempt in any way to influence the award of the contract.

- 5.3.2. An employee has an indirect pecuniary interest in any contract in which the Township of Hornepayne is concerned, if:

- i. the employee or his/her spouse or same-sex partner, parent or child is a shareholder in, or a Director or Senior Officer of, a corporation that does not offer its securities to the public that has a pecuniary interest in the contract;
- ii. has a controlling interest in or is a Director or Senior Officer of, a corporation that offers its securities to the public that has a pecuniary interest in the contract;
- iii. is a member of an incorporated association or partnership, that has a pecuniary interest in the matter; or,
- iv. the employee or his/her immediate family member are in the employment of a person, unincorporated association or partnership that has a pecuniary interest in the Contract.

- 5.3.3. Where a member of Council, either on his/her own behalf or while acting for, by, with or through another person, has any pecuniary interest, direct or indirect, in the contract, that Council Member shall:

- i. not take part in the award of the contract; and,
- ii. not attempt in any way to influence the award of the contract.

5.4. RESPONSIBILITIES AND AUTHORITIES

- 5.4.1. Council has the ultimate authority for all municipal expenditures subject to Section 8.1 and bid irregularities as set out in Appendix VI of this By-Law.

5.4.2. The CAO/Clerk has the ultimate responsibility for procurement activities, subject to Section 8.1 and bid irregularities as set out in Appendix VI of this By-Law.

5.4.3. The CAO/Clerk shall submit recommendations to Council for approval. All contracts are subject to Council approval unless otherwise specified in this By-Law.

5.4.4. The CAO/Clerk may impose additional restrictions concerning procurement where such action is considered necessary and in the best interest of the Corporation.

5.5. ACCESSIBILITY

5.5.1. All bidders, suppliers and contractors who provide goods, services, equipment or construction to the Township or Hornepayne now or in the future, shall comply with the *Accessibility for Ontarians Act, 2005*, and all Regulation emanating therefrom.

5.6. PURCHASES GENERAL

5.6.1. Purchase orders are not necessary; staff that place orders or make purchases shall use their respective names as reference. The purchaser shall sign for the goods when received. The treasurer shall indicate the appropriate account number for payment.

5.7. PETTY CASH

5.7.1. Petty Cash funds are intended for purchases under \$50.00 from local suppliers except in circumstances where the use of petty cash funds is not feasible. Petty Cash shall be replenished through a request to the Treasurer, which contains all receipts, account charges and a proper reconciliation of the fund. Petty Cash reconciliation is to be completed on a regular basis and filed with the Treasurer.

5.8. CO-OPERATIVE PURCHASING

5.8.1. The Township of Hornepayne may participate with other Surrounding Communities, Government Agencies, and/or Local Boards in co-operative purchasing where it is in the best interests of the Municipality to do so.

5.8.2. The policies of the Surrounding Communities, Government Agency or Local Boards calling the co-operative tender are to be the governing policy for that particular tender.

5.9. NON-COMPETITIVE PURCHASES

5.9.1. The Non-Competitive purchasing method refers to the negotiation of an agreement for the purchase of goods, services, equipment and construction from a supplier where there is no open competition. This may be defined as the use of a "Sole Source" or "Single Source".

5.9.2. Sole Source Purchases: Exemption from this policy is granted in circumstances where there is only one supplier available and no alternative or substitute exists and/or where there is a statutory monopoly on the product or service.

- 5.9.3. Single Source Purchases:** Exemption from this policy is granted in circumstances where the Municipality deems it desirable to award a non-competitive contract for follow-on goods or services after the completion of a competitive contract provided that the possibility of a follow-on contract is identified in the original bid solicitation.

5.10. CANCELLATION OF BID SOLICITATION

- 5.10.1.** The CAO/Clerk may cancel a bid solicitation at any time up to the contract award.

5.11. ACCESS TO INFORMATION

- 5.11.1.** The disclosure of information requests made in writing to the CAO/Clerk, or other person designated by Council, relevant to the issue of bid solicitations or the award of contracts emanating from bid solicitations shall be in accordance with the provisions of the *Municipal Freedom and Protection of Privacy Act, as amended*.

5.12. RE-ALLOCATION OF COSTS

- 5.12.1.** If through an analysis of accounts, misallocations of funds are identified, the Treasurer, or designate, shall take all remedial action to reallocate the funds, when such reallocation is deemed necessary.

5.13. ANNUAL REVIEW

- 5.13.1.** Year to date department expenditures shall be reviewed in October, and each month thereafter to the end of the year by the Treasurer.

5.14. EMERGENCY PURCHASES

- 5.14.1.** Circumstance may occur where the health, safety, life or convenience of the citizens of the Municipality may be in jeopardy. Under these conditions, an emergency purchase shall be in accordance with the procedures set out in the Budget & Financial Controls Policy.

- 5.14.2.** The CAO/Clerk may, under these circumstances make an emergency purchase notwithstanding any other provision in this By-Law. A purchase may be made to obtain the required supplies or services regardless of the amount.

For all emergency purchases, the CAO/Clerk shall be responsible to file a complete report on the circumstances of the emergency with the Treasurer and Council, within 24 hours, where possible.

6. PROCUREMENT PROCEDURES

6.1. CAO/CLERK'S AUTHORIZATION

- 6.1.1.** The CAO/Clerk is permitted to authorize the purchase of goods and/or services, not exceeding \$50,000, without receiving Council approval provided that:

- i. the purchase of such goods and/or services are in accordance with this By-Law; and,
- ii. the purchase of such goods and/or services are in accordance with the Township of Hornepayne's Budget & Financial Controls Policy.

6.1.2. The purchase of goods and/or services shall be reported to Council in accordance with the procedures set out in the Budget & Financial Controls Policy.

6.2. DEPARTMENT HEADS' AUTHORIZATION

6.2.1. Department Heads are permitted to purchase goods and/or services, not exceeding \$10,000, without receiving Council approval, provided that the goods and/or services have been included in the annual budget.

6.2.2. Department Heads are permitted to purchase goods and/or services not exceeding \$25,000 provided that:

- i. the goods and/or services have been included in the annual budget estimates approved by Council;
- ii. Department Heads shall adhere to informal quotations process, as follows:
 - a) obtain a minimum of two (2) verbal quotations, where possible and practicable;
 - b) written documentation is maintained for each quotation;
 - c) where only one supplier is available, the Department Heads shall file that supplier's quote along with details of refusals; and,
 - d) approval is obtained by the CAO/Clerk.

6.2.3. The purchase of goods and/or services shall be reported to Council in accordance with the procedures set out in the Budget & Financial Controls Policy.

6.3. REQUEST FOR QUOTATION (RFQ) (\$25,001 to \$50,000)

6.3.1. The RFQ procedure shall be for purchases exceeding \$25,000 but not exceeding \$50,000.

6.3.2. Quotations may be called either by public advertising or invitation only.

6.3.3. Notification of quotation opportunities for goods, services, equipment or construction may be supplemented by other means of notification where appropriate.

6.3.4. The competitive method of purchase used to purchase the goods, services, equipment or construction in this total acquisition cost range shall demonstrate that Fair Market Value was achieved.

6.3.5. Specifications for the goods and services will be established with particularity to permit comparable quotations by suppliers.

6.3.6. A sufficient number of suppliers shall be requested to submit quotations on the specifications so that at least three (3) responsive quotations are received, where possible.

6.3.7. It is expected that negotiations with one or more bidder may be required with respect to any aspect of the requirements.

6.3.8. The CAO/Clerk, in consultation with the Mayor, reserves the right, in his/her absolute discretion, to accept or reject any submission.

6.4. REQUEST FOR TENDER (RFT) (\$50,001 to \$150,000)

6.4.1. The RFT procedure shall be used for purchases exceeding \$50,000 but not exceeding \$150,000.

6.4.2. Three (3) or more quotes for the supply of goods, services equipment, or construction are required, where possible.

6.4.3. Tenders may be called either by public advertising or invitation only.

6.4.4. Notification of tender opportunities for goods, services, equipment or construction may be supplemented by other means of notification where appropriate.

6.4.5. Advertisements for Tenders for all work, equipment and materials shall include the following information:

- i. Site meeting (if applicable) – time, date and location;
- ii. Contact names for technical and purchasing inquiries;
- iii. Location for picking up tender packages;
- iv. Location for dropping off tender packages;
- v. Deadline for submission of tender packages; and,
- vi. The privilege clause: "Lowest or any bid may not necessarily be accepted".

6.4.6. The closing date shall be a minimum of 10 calendar days after the date of advertising. However, a tender may be closed in a shorter or longer period of time depending on the urgency or complexity of the item(s) tendered.

6.4.7. Depending on the complexity of the item(s) being purchased, the CAO/Clerk may obtain professional assistance from qualified individuals to assist with the preparation and completion of the tender specifications.

6.4.8. All tender submissions must be addressed to the CAO/Clerk and returned in the envelope provided with the tender package. Upon receipt of a tender, the CAO/Clerk shall:

- i. date and record the time on the sealed envelope;
- ii. assign a tender number to the tender package and record the submission on the "Tender Log"; and,
- iii. deposit the sealed tender in a tender envelope or box.

6.4.9. The CAO/Clerk shall refuse to accept any tender submission that is:

- i. not sealed;
- ii. received after the closing deadline. (The CAO/Clerk or designate is to record on late tender received, the date and time received and make a copy of the sealed envelope to retain on file. Envelope is then to be returned to the bidder); or,
- iii. submitted after a tender has been cancelled.

6.4.10. Requests for withdrawal of a tender shall be allowed if the request is made by the bidder, in writing, before the closing time for the contract to which it applies. A Senior Official of the company must direct requests to the CAO/Clerk, in writing (by letter, email, or facsimile) or in person, with a signed withdrawal confirming the details. Telephone requests will not be considered. The withdrawal of a tender does not disqualify the bidder from submitting another tender on the same contract.

6.4.11. Tenders close at 2:00 p.m. on the appointed day.

6.4.12. Unless otherwise specified in the tender documents, tenders are to be opened publicly at 1:00 p.m. on the next business day.

6.4.13. Tender Documents are to be opened in the presence of at least 2 Staff Members or 1 Staff Member and 1 Council Member. The amount of each bid shall be recorded on the "Tender Log", (Appendix "III") attached to and forming part of this By-Law.

6.4.14. The CAO/Clerk shall submit a report for consideration by Council and approval by Resolution. Such report shall include:

- i. list of rejected bids and reasons for the rejection;
- ii. a recommendation in support of one of the bids; and,
- iii. the rationale for this recommendation.

6.5. REQUEST FOR PROPOSAL (RFP)

6.5.1. Requests for Proposal shall be used where the requirement is best described in a general performance specification. In this competitive method of purchase, some or all the specifications of the contract terms may not be finally determined with sufficient certainty to form the basis of final contract before proposals are solicited and submitted.

6.5.2. Proposals may be called either by public advertising or invitation only.

6.5.3. Notification of proposal opportunities for goods, services, equipment or construction may be supplemented by other means of notification where appropriate.

6.5.4. To achieve best value, the award selection will be made by methods involving a combination of mandatory specifications and desirable requirements.

6.5.5. An RFI, REOI and Request for Qualification shall follow the same award approvals as an RFP.

6.5.6. Depending on the nature of the requirement, suppliers are encouraged to propose innovative solutions to a problem and the selection of the supplier is based on the effectiveness of the proposed solution rather than the price alone or a combination of both the effectiveness and price.

6.5.7. It is expected that negotiation with more than one bidder may be required with respect to any aspect of the requirements.

6.5.8. Council has the right, in its absolute, sole discretion, to accept or reject any submission

6.6. BID IRREGULARITIES

6.6.1. For the purposes of this By-Law, bid irregularities are further classified as "major irregularities" or "minor irregularities". See Appendix "VI" attached to and forming part of this By-Law for types of irregularities and their classification.

6.6.2. A major irregularity is a deviation from the bid request that affects the price, quality, quantity or delivery, and is material to the award. If the deviation is permitted, the bidder could gain an unfair advantage over competitors. The Municipality must reject any bid, which contains a major irregularity.

6.6.3. A minor irregularity is a deviation from the bid request which affects form rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. If the deviation is permitted or corrected, the bidder would not gain an unfair advantage over competitors. The Municipality may permit the bidder to correct a minor irregularity.

6.6.4. The CAO/Clerk will be responsible for all action taken in dealing with bid irregularities, and act in accordance with the nature of the irregularity:

- i. Major irregularity – automatic rejection;
- ii. Minor irregularity – bidder has option/opportunity to rectify; and,
- iii. Errors in calculations (including errors in taxes) – may be corrected and the unit prices will govern.

6.7. PROCUREMENT DOCUMENTATION

6.7.1. Procurement documentation for bid requests shall avoid use of specific products or brand names.

6.7.2. Notwithstanding Clause 6.7.1, Council may specify a specific product or brand name for essential functionality purposes to avoid unacceptable risk or for some other valid purpose. In such instances, Council shall manage the procurement in order to achieve a competitive situation, if possible.

6.7.3. Awards may not necessarily be made to the lowest bidder who has complied with the terms and conditions in the Request for Quotation or Request for Tender, all other factors being equal. In addition to price, other factors may be considered for the acceptance of a bid other than the lowest bid. These factors include:

- i. Ability and experience to perform in accordance with the terms of the invitation;
- ii. Record of past performance with Council;
- iii. Past performance with other Municipalities or Local Boards;
- iv. Financial and technical resources;
- v. Knowledge of the Municipality's operations, systems and services;
- vi. Compatibility with other goods and services of the Municipality;
- vii. The percentage of local content, including supplies, materials and sub-contractors from within the Municipal boundaries;
- viii. Any other factors, including a scoring system which may be used by Council in evaluating bids received; and,
- ix. All bid requests shall include the privilege clause "The lowest or any bid may not necessarily be accepted".

6.8. GUARANTEE OF CONTRACT EXECUTION AND PERFORMANCE

6.8.1. Council may require that a bid bond or other similar security to guarantee entry into a contract shall be submitted with all bids. Unless otherwise specified, in circumstances where a bid bond or other security is required, the refundable deposit requirements for Request for Tenders shall be a minimum of 10%.

6.8.2. Prior to commencement of the work, the successful bidder may be required to provide the following security in addition to the security provided to in Clause 6.8.1:

- i. A performance bond, percentage to be pre-determined in original tender documents, to guarantee the performance of a contract; and,
- ii. A payment bond, percentage to be pre-determined in original tender documents, to guarantee the payment for labor and materials supplied in connection with a contract.

6.8.3. Council shall select the appropriate means to guarantee execution and performance of the contract. Means may include one or more of, but are not limited to, certified cheque, bank draft, irrevocable letter of credit, money order and, where appropriate, a bid bond issued by an approved guarantee company properly licensed in the province of Ontario, on bond forms acceptable by Council.

6.8.4. Prior to the commencement of work, evidence of Health & Safety Policy, Safety Orientation, General Liability and Workplace Safety Insurance Board coverage satisfactory to the Municipality must be

obtained, ensuring indemnification of the Municipality from any and all claims, demands, losses, costs or damages resulting from the performance of a bidder's obligations under the contract and from any risk determined by the Municipality as requiring coverage.

- 6.8.5.** Ensuring all premiums or levies have been paid to the Workplace Safety and Insurance Board to the date of payment.

6.9. EVALUATION OF BIDS RECEIVED AND AWARD

- 6.9.1.** The CAO/Clerk and/or Department Head requesting the goods/services shall review all bids against the established criteria and reach consensus on the final rating results. The CAO/Clerk shall ensure that the final rating results are kept with the procurement file.
- 6.9.2.** The CAO/Clerk shall submit a summary of the procurement and provide a recommendation to Council respecting award of contract to the bidder whose bid meets all mandatory requirements as specified in the bid solicitation and provides best value to the Municipality based on the evaluation criteria specified in the bid solicitation
- 6.9.3.** In an event that more than one bidder has submitted a tender in the same amount, Council shall make its decision based on the merit of the bid (i.e. including such factors as time for completion and previous performance of the bidder). If the merit for each bid is equal, then the bid to be accepted shall be decided by means of a draw. The names of the tied bidders shall be placed in a container and the bid to be awarded shall be drawn by a member of Council. The CAO/Clerk shall set the time and location of the draw and notify all bidders in order that they may be present.

6.10. BIDS IN EXCESS OF PROJECT ESTIMATES

- 6.10.1.** Where bids are received in response to a bid solicitation but exceed the project estimates, the CAO/Clerk, with the authority of Council, may enter negotiations with the lowest responsive bidder (if the best choice), to attempt to achieve an acceptable bid within the project estimate.
- 6.10.2.** Council may cancel a competition or call a new competition when an original bid cannot be negotiated that falls within budget limits.

6.11. CONTRACTUAL AGREEMENTS

- 6.11.1.** The award of a contract shall be made by way of an agreement.
- 6.11.2.** A more formal agreement shall be used when the contract is complex and will contain terms and conditions other than Council's standard terms and conditions.
- 6.11.3.** Council shall approve any and all changes in a contract that affect price or terms of the original contract.
- 6.11.4.** All contracts shall specify conditions under which the contract may be terminated by either Council or the bidder.

7. CONTRACT OPTIONS

7.1. EXERCISE OF CONTRACT RENEWAL OPTIONS

7.1.1. Where a contract contains an option for renewal, Council may exercise such option provided that:

- i. the supplier's performance in supplying the goods, services or construction is considered to have met the requirements of the contract;
- ii. Council agrees that the exercise of the option is in the best interest of the Municipality; and,
- iii. funds are available in appropriate accounts within the municipality's approved estimates including authorized revisions to meet the proposed expenditure.

7.1.2. The authorization from Council shall include a written explanation as to why the renewal is in the best interest of the Municipality and such written explanation shall be passed by resolution.

7.2. EXECUTION AND CUSTODY OF DOCUMENTS

7.2.1. The Mayor and/or CAO/Clerk are authorized to execute formal agreements in the name of the Municipality that have been approved by By-Law.

7.2.2. The CAO/Clerk shall be responsible for the safeguarding of original purchasing and contract documentation for the contracting of all goods, services, equipment or construction awards.

7.3. REVIEW AND EVALUATION

7.3.1. This By-Law shall be a live document and shall be continually reviewed, edited and updated, when necessary by the Municipality commencing from the date of adoption. Such review of this By-Law shall include the evaluation of its effectiveness and efficiency to the Municipality.

8. RESTRICTIONS AND PROHIBITIONS

8.1. RESTRICTIONS

8.1.1. No other forms of procurement other than the procedures set out herein shall be permitted, unless prior approval is obtained by Council resolution.

8.1.2. No Contract for services shall be awarded where the services would result in the establishment of an employee-employer relationship.

8.1.3. No employee shall purchase, on behalf of the Corporation any goods, services, equipment or construction, except in accordance with this By-Law.

8.1.4. Only those individuals authorized to purchase on behalf of the Municipality in accordance with this policy shall be permitted to contact bidders in writing as soon as practicable during the

procurement process in instances where clarification about the procurement is necessary.

- 8.1.5. No one involved in the procurement process is permitted to contact bidders during the evaluation process, unless clarification is required.
- 8.1.6. Everyone associated with the Municipality, including Members of Council, will only accept gifts, hospitality or entertainment of a nominal value that could not be reasonably construed as being given in anticipation or recognition of special consideration by the Corporation.
 - i. Hospitality or entertainment of nominal value shall only be accepted if the offer is infrequent and appropriate for the occasion. In these circumstances, it is assumed that the nature of the business discussed is important enough to the Municipality that reciprocal arrangements could openly be made and charged to the Municipality.
- 8.1.7. If Department Heads consider purchasing a good or service from a Council Member, employee or immediate family member of an employee or Council Member and the purchase is more than \$1,000.00; then two (2) written quotations must be obtained and filed for future reference.
- 8.1.8. The Municipality shall not consider In-House bids as an acceptable procurement process.
- 8.1.9. All Council members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50*, as amended.

8.2. PROHIBITIONS

8.2.1. DIVISION OF CONTRACTS

- 8.2.1.1. No employee of the Municipality shall divide a purchase or a contract to avoid the requirement of the Tender, Proposal or Quotation procedures. Nor shall purchases be split in order to circumvent prescribed spending authority dollar limit as outlined in this By-Law.

8.2.2. INTERFERENCE IN THE PROCUREMENT PROCESS

- 8.2.2.1. Elected Officials, Appointed Officers and employees shall not knowingly 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. This also includes a contract with any other Municipality, local board or public body involved in the purchase of goods and/or services either jointly or in cooperation with the Municipality.
- 8.2.2.3. Elected Officials shall separate themselves from the procurement process and have no involvement whatsoever in specific procurements.

- 8.2.2.4.** Elected Officials shall not see any documents or receive any information related to a particular procurement while the procurement process is ongoing.
- 8.2.2.5.** Elected Officials who receive inquiries from suppliers related to any specific procurement shall immediately direct those inquiries to the CAO/Clerk.
- 8.2.3.3.** The only exception to the above relates to selection of external auditors or an Integrity Commissioner whereby the Elected Official(s) is specifically part of the evaluation team.

Appendix "I" to By-Law No. 1636

Amount of Purchase	Procurement Process to be Used	Conditions/Explanation	Section
\$0 to \$50,000	CAO/Clerk's authority to Direct Acquisition, including Petty Cash purchases, and Authorize same	The CAO/Clerk is permitted at his/her discretion to approve the purchase of goods and/or services without receiving Council approval and to authorize such purchases.	Section 6.1
\$0 to \$10,000	Department Heads' authority to Direct Acquisition, including Petty Cash purchases	Department Heads are permitted to purchase goods and/or services without receiving Council approval, provided that the goods and/or services have been included in the annual budget.	Section 6.2.1
\$10,000 to \$25,000	Informal Quotations	Department Heads are permitted to purchase goods and/or services provided that: <ul style="list-style-type: none"> ✓ The goods and/or services have been included in the annual budget estimates approved by Council. ✓ Department Heads shall obtain a minimum of 2 verbal quotations, where possible and practicable. ✓ Written documentation is maintained for each quotation. ✓ Where only one supplier is available, Department Heads shall file that supplier's quote along with details of refusals. Subject to approval by the CAO/Clerk	Section 6.2.2
\$25,001 to \$50,000	Quotations (Request for Quotations-RFQ)	<ul style="list-style-type: none"> ✓ Department Heads shall obtain a minimum of 3 quotations, where possible and practicable. ✓ Expenditures must be made so as to obtain the best value for the Corporation. ✓ Where only one supplier is available, Department Heads shall file that supplier's quote along with details of refusals. ✓ Copies of quotations are provided to the CAO/Clerk with a recommendation. ✓ The CAO/Clerk shall make the final decision, based on the quotations provided. 	Section 6.3
\$50,001 to \$150,000	Tendering (Request for Tenders –RFT)	Expenditures that exceed \$50,000 must be tendered in accordance with Section 6.4 of this By-Law.	Section 6.4
No \$ Limit	Proposal (Request for Proposal-RFP)	Used when a unique proposal designed to meet a broad outcome to a complex problem or need for which there is no clear or single solution.	Section 6.5

Note: The purchase of goods and/or services exceeding \$150,000 requires Council approval. Council may authorize such purchases by means of RFQ, RFT or RFP.

Appendix "I" to By-Law No. 1636

Notwithstanding the purchasing methods described in this By-Law, the CAO/Clerk may purchase or contract for the following goods and services without following the procedures set out herein and subject to Section 8.1:

1. Training and Education:

- a) Registration and Tuition fees for conferences, conventions, courses and seminars (excluding travel expenses),
- b) Magazines, books and periodicals unless the purchase of such magazines, books and periodicals are subject to value-added services, and,
- c) Subscriptions and Memberships.

2. Refundable Employee/Councillor Expenses:

- a) Advances,
- b) Meal Allowances,
- c) Travel and Entertainment, and,
- d) Miscellaneous – Non – Travel.

3. Employer's General Expenses:

- a) Payroll and Payments to Government Agencies, Carriers and/or Unions,
- b) Licences, Certificates and other approvals required,
- c) Debenture Payments,
- d) Damage Claims, and,
- e) Petty Cash Replenishment.

4. Utilities including, hydro, telephone, gas, propane, etc.

5. Advertising Services required by the Township of Hornepayne on or in but not limited to radio, television, newspaper, and magazines.

6. Bailiff or Collection Agencies fees.

9. Board and Committee Levies.

10. Council Honorariums.

11. Shipping & Postal charges.

12. Ongoing maintenance for existing computer hardware and software.

13. Engineering Consulting Services.

14. Other Professional and Special Services, including:

- a) Non-recurring Accounting and Auditing Services,
- b) Insurance Services,
- c) Legal fees and other Professional Services related to litigation or legal matters,
- d) Banking services where covered by Agreements,
- e) Group Benefits,
- f) Realty Services regarding the lease, acquisition, demolition, sale of land and appraisal of land,
- g) Committee fees, and,
- h) Witness fees

15. Policing Contracts; and,

16. Reciprocal or Shared Agreements.

Appendix “III” to By-Law No. 1636

THE CORPORATION OF THE TOWNSHIP OF HORNEPAYNE

TENDER LOG

Project Name:	
Tender Deadline:	

Name of Bidder	Envelope No.	Date Submitted	Time Submitted	Tender Amount*

*To be completed when tenders are opened.

Appendix "IV" to By-Law No. 1636

Description of Irregularity	Major	Minor	Action to be Taken
Late bid (by any amount of time)	X		Automatic rejection
Bids completed in pencil	X		Automatic rejection
Bid surety not submitted with the bid when the bid request (or any addenda) indicated that such surety is required	X		Automatic rejection
Execution of Agreement to bond: a) bond company corporate seal or equivalent proof of authority to bind company or signature missing b) surety company not licensed to do business in Ontario	X		Automatic rejection
Execution of Bid Bonds: a) corporate seal or equivalent proof of authority to bind company or signature of the BIDDER or both missing b) corporate seal or equivalent proof of authority to bind company or signature of BONDING COMPANY missing	X		Automatic rejection
Other Bid Security: Cheque has not been certified	X		Automatic rejection
Bidders not attending mandatory site meeting	X		Automatic rejection
Unsealed tender envelopes	X		Automatic rejection
Proper response envelope or label not used		X	Acceptable if officially received on time
Pricing or signature pages missing	X		Automatic rejection
Insufficient financial security (i.e. no deposit or bid bond or insufficient deposit)	X		Automatic rejection
Bid received on documents other than those provided in request	X		Not acceptable unless specified otherwise in the request
Execution of bid document — proof of authority to bind corporation is missing	X		Automatic rejection
Part bids (all items not bid)	X or	X	Acceptable unless complete bid has been specified in the request
Bids containing minor clerical errors		X	2 Working days to correct errors and initial changes. Township of Hornepayne reserves the right to waive by initialing and accept bid
Other mathematical errors which are not consistent with the unit prices		X	2 Working days to correct errors and initial changes. Unit prices will prevail
Pages requiring completion of information by vendor are missing	X		Automatic Rejection
Bid documents which suggest that the bidder has made a major mistake			Consultation with a solicitor on a case-by-case basis and referenced within the staff report if applicable.

NOTE: The above list of irregularities should not be considered all-inclusive. The CAO/Clerk will review minor irregularities not listed. The CAO/Clerk may then accept the bid, or request that the bidder rectify the deviation.