

# THE CORPORATION OF THE TOWN OF TECUMSEH

## BY-LAW NUMBER 2017-63

Being a by-law to govern procurement policies and procedures

**WHEREAS** Section 271 of the Municipal Act, 2001, S.O. 2001, c.25 imposes upon municipalities the obligation to adopt policies with respect to the procurement of Goods and Services;

**AND WHEREAS** this By-law establishes the authority and sets out the methods by which Goods, Services or Construction will be purchased and disposed of for the purposes of the Town of Tecumseh subject to certain exceptions as set out herein;

**AND WHEREAS** the Council of the Corporation of the Town of Tecumseh deems it expedient to enact this by-law to make provisions to govern the procurement of all goods and services within the municipality of Tecumseh.

**NOW THEREFORE** the Council of the Corporation of the Town of Tecumseh enacts as follows:

### SHORT TITLE

This By-law may be cited as the Town of Tecumseh "Purchasing By-law".

### 1.0 PART I – OBJECTIVE

- 1.1 This By-law outlines the processes to be followed in order to obtain the best value when purchasing goods, or contracting services for the Town of Tecumseh.
- 1.2 The guiding principle is that procurement decisions will be made using a competitive process that is open, transparent and fair.

### 2.0 PART II – GENERAL PROVISIONS

- 2.1 Unless otherwise provided in accordance with this By-law, the Department Directors shall act for the Town of Tecumseh for the purchase of all goods and services and shall be responsible for providing all necessary advice and services required for such purchases in accordance with the method of purchase authorized by this By-law and the Purchasing Policy contained herein.
- 2.2 No purchase of goods and services shall be authorized unless it is in compliance with the Purchasing By-law and the Purchasing Policy contained herein.
- 2.3 Elected Officials shall not approve or acquire any goods and services.
- 2.4 Unless otherwise provided in accordance with this By-law and the Purchasing Policy contained herein, the purchase of all goods and services shall be authorized in accordance with the provisions of Schedule "A" to this By-law.
- 2.5 No requirement for goods and services may be divided into two or more parts to avoid the provisions of this policy.
- 2.6 The Purchasing Coordinator, together with the Purchasing Officer, are authorized to make and promulgate from time to time administrative policies, procedures and directions respecting:
  - i) the preparation and development of specifications;

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- ii) the requirements and form of bid deposits;
  - iii) other securities and documentation required or advisable for sealed bids;
  - iv) procedures for the opening, evaluation and recommendation of tenders;
  - v) such other matters of an ancillary or incidental nature to more fully carry out the intent and purpose of this By-law.
- 2.7 Definitions specific to this By-law are documented in the Purchasing Policy contained herein.
- 2.8 Disputes shall be resolved as follows:
- i) meeting between the bidder and the Department Director,
  - ii) if (i) does not lead to a resolution, the decision can be appealed to the Chief Administrative Officer,
  - iii) if (ii) does not lead to a resolution, the decision can be appealed to the Town Council.
- 2.9 This By-law will be reviewed and revised on a periodic basis. It is anticipated that reviews will be conducted every five years or more frequently as required.
- 2.10 Goods and services not subject to this By-law are listed in Schedule "B" to this By-law.

### **3.0 PART III – RESPONSIBILITIES AND AUTHORITIES**

#### **RESPONSIBILITIES**

- 3.1 Department Directors:
- i) have responsibility for all procurement activities within their respective Department and are accountable to achieving best value while following the procurement principles; and have authority to purchase items as outlined in schedule A.
- 3.2 The Purchasing Officer is responsible for:
- i) providing professional procurement advice and services to Department Directors;
  - ii) monitoring compliance with this By-law;
  - iii) reporting to the Purchasing Coordinator whenever the specifications of a tender call or Request for Proposal cannot be met by two or more suppliers;
  - iv) notifying the Purchasing Coordinator, in advance if possible, of non-compliance with this By-law and/or the Purchasing Policy contained herein;
  - v) rejecting all purchase requisitions for services where the services could result in the establishment of an employee-employer relationship.

### **SINGLE/SOLE SOURCING/DIRECT NEGOTIATION**

- 3.3 In circumstances where there may be more than one source of supply in the open market, but only one of these is recommended by the Department Director, with the concurrence of the Purchasing Officer, for consideration on the grounds that it is more cost effective or beneficial to the Town; and where the expenditure will exceed \$100,000, approval must be obtained from Town Council prior to negotiations with the single source. The Department Director shall be responsible for submitting a report detailing the rationale supporting the use of the single source.
- 3.4 If a Department Director requires goods, services or equipment deemed to be available from only one source of supply and where the expenditure will exceed \$100,000 the Department Director, with the concurrence of the Purchasing Officer, shall initiate a report to the Town Council requesting that the tendering procedure be waived and that the Department Director be authorized to negotiate with the sole source supplier.

### **AUTHORITY**

- 3.5 Department Directors have the authority to award contracts in the circumstances specified in the Purchasing Policy contained herein provided that the delegated power is exercised within the limits prescribed in Schedule "A" to this By-law, and the requirements of this By-law and the Purchasing Policy are met.
- 3.6 When a Department Director is of the opinion that a "triggering event" has occurred, the Department Director may authorize the purchase of such goods, services and construction as is considered necessary to remedy the situation without regard to the requirement for a bid solicitation and may award the necessary contract amendment.

The relevant details surrounding the "triggering event" shall be included in a report and submitted to Town Council as soon as possible.

- 3.7 The Town 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 Town Clerk shall whenever possible, be guided by the provisions of this By-law and the Purchasing Policy contained herein.
- 3.8 Despite any other provision of this By-law, the following contracts are subject to Town Council approval:
- i) any contract requiring approval from the Ontario Municipal Board;
  - ii) any contract prescribed by Statute to be made by Town Council;
  - iii) where the cost amount proposed for acceptance is higher than the Town Council approved budget for that expenditure or where the expenditure would result in insufficient remaining funds in the project budget to complete the project as budgeted;
  - iv) where a substantive objection emanating from the bid solicitation has been filed with the Chief Administrative Officer;

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- v) an extension of an existing contract where there is no option to extend included in the contract;
  - vi) where a major irregularity precludes the award of a tender to the supplier submitting the lowest bid, and
  - vii) where authority to approve has not been expressly delegated.
- 3.9 No appointed officer or employee of the Town will have any interest directly or indirectly, as a contracting party, partner, shareholder, surety or otherwise in any contract for goods or services or in any portion of the profits thereof, or any supplies to be used therein, or in any of the monies to be derived therefrom unless such interest has been declared and approved by Council prior to the close of the bid, or in the case of multiple small non-contracted jobs, on an annual basis.
- 3.10 Any contract with the Town, or with any person acting for the Town, and any contract for the supply of goods, materials or services to a contractor for work for which the Town pays or is liable, directly or indirectly, to pay in which a member of Council or any employee of the Town has an undeclared pecuniary interest, directly or indirectly may be voided.
- 3.11 All staff and others participating in the evaluation of proposals shall disclose any conflict of interest prior to the evaluation process and shall not be permitted to influence or participate in the evaluation.
- 3.12 All consultants awarded a contract shall disclose to the Town prior to accepting an assignment, any potential conflict of interest. If such a conflict of interest exists, the Town as directed by the Director or Chief Administrative Officer may, at its discretion, withhold the assignment from the consultant until the matter is resolved. Furthermore, if during the conduct of a Town assignment, a consultant is retained by another client giving rise to a potential conflict of interest, then the consultant shall so inform the Town.

#### **4.0 PART IV – REQUIREMENT FOR APPROVED FUNDS**

- 4.1 The exercise of authority to award a contract is subject to the identification and availability of sufficient funds in appropriate accounts within Town Council approved budget. Pending Council's approval of proposed budgetary estimates, Department Directors are authorized to spend up to 50% of the previous year's approved Operating Budget.
- 4.2 Where goods and services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a contract is subject to:
- i) the identification and availability of sufficient funds in appropriate accounts for the current year within Town Council approved budget; and
  - ii) the requirement for the goods or services will continue to exist in subsequent years and, in the opinion of the Town Treasurer, the required funding can reasonably be expected to be made available.

**5.0 That By-Law No. 2006-03 is hereby repealed.**

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**Read** a first, second and third time and finally passed this 12th day of September, 2017.

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Gary McNamara, Mayor

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Laura Moy, Clerk

**SCHEDULE “A” - TO BY-LAW 2017-60**

**LEVELS OF CONTRACT APPROVAL AUTHORITY**

Note: Sales taxes, excise taxes, goods and services taxes and duties shall be included in determining the price of a contract for the supply of goods or services for the purpose of the relationship of the price to the preauthorized expenditure limit.

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

**Regular Purchases**

<b>Dollar Value</b>	<b>Procurement Process</b>	<b>Approval Authority</b>	<b>Source of Bids</b>
\$10,000 or less	No formal quotes required.	Any employee authorized by the Department Director	Purchase from the competitive marketplace where possible and practicable
\$10,000 to \$50,000	Informal Quotation - written quotation required	Department Director	Three (3) written quotes to be obtained
\$50,000 to \$500,000	Formal Quotation -written quotation required by Request for Quotation/Proposal/Tender	Department Director & Purchasing Coordinator/Chief Administrative Officer	Advertised in papers and / or website and /or direct invitation
Greater than \$500,000	Written quotation required by Request for Tender/Proposal/ Quotation	Town Council	Advertised in papers and / or website and/ or direct invitation

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**Single/Sole Sourcing/Direct Negotiation**

<b>Dollar Value</b>	<b>Procurement Process</b>	<b>Approval Authority</b>	<b>Source of Bids</b>
Less than \$100,000		Department Director & Purchasing Coordinator or Chief Administrative Officer	
Greater than \$100,000	Direct negotiation as a result of single or sole source	Town Council	

**Irregular Result**

<b>Dollar Value</b>	<b>Procurement Process</b>	<b>Approval Authority</b>	<b>Source of Bids</b>
Less than \$100,000		Department Director & Purchasing Coordinator or Chief Administrative Officer	
Greater than \$100,000		Town Council	

**SCHEDULE "B" - TO BY-LAW 2017-60****GOODS AND SERVICES NOT SUBJECT TO THIS BY-LAW**

1. Petty cash items
2. Training and education including:
  - i. conferences, courses, seminars, professional development, staff development/workshops
  - ii. magazines and periodicals
  - iii. memberships
  - iv. staff relations
3. Refundable employee expenses including:
  - i. cash advances
  - ii. meal allowances, accommodation and travel expenses
4. Employer's general expenses including:
  - i. payroll deduction remittances
  - ii. medicals
  - iii. insurance premiums
  - iv. tax remittances
  - v. grants to agencies
  - vi. payments of damages
  - vii. charges to/from other Government or Crown Corporations
5. Licenses, certificates, and other approvals required
6. Ongoing maintenance for existing computer hardware and software
7. Professional and special services including:
  - i. additional non-recurring accounting and auditing services
  - ii. banking services where covered by agreements
  - iii. public debenture sales
  - iv. group benefits
  - v. realty services regarding the lease, acquisition, demolition, sale of land and appraisal of land
  - vi. consulting services
  - vii. policing services
8. Advertising services required by the Town on or in but not limited to radio, television, newspaper and magazines
9. Utilities
  - i. postage
  - ii. water, sewer and hydro charges
  - iii. internet