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# Town of Mulgrave

## Purchasing and Tendering Policy

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### Title:

1. This Policy is entitled the “Purchasing and Tendering Policy”.

### Interpretation:

2. It is the policy of the Town of Mulgrave to acquire goods and services on a competitive basis to ensure best value is received for the taxpayers and to ensure procurement is transparent, accessible, equitable and environmentally sustainable.

3. In this Policy:

(1) “**multi-municipal supply programs**” means a source of supply available to the Town of Mulgrave as a member of a larger group of purchasers and such programs include:

(a) equipment leasing programs through various Departments of the Nova Scotia Government or the Nova Scotia Municipal Finance Corporation;

(b) Nova Scotia Provincial “standing offers” administered by various Departments of the Nova Scotia Government or the Nova Scotia Municipal Finance Corporation;

(c) supplies available from the Nova Scotia Government stationary stock room;

(d) a procurement program administered by the Union of Nova Scotia Municipalities or the Association of Municipal Administrators;

(e) any other program available to several municipal units provided that municipal staff is satisfied that such program has been developed and conforms with the principles set out in section eleven [11].

(2) “**procurement by price agreement**” or “price agreement” means procurement pursuant to a standing agreement for the supply of various goods and services required on a day to day basis. Price agreements themselves shall be the result of a public tender process.

(3) “**public tender**” or “**public tender process**” means either a traditional tender or a request for proposals and the selection between these processes shall be made by Council;

(4) “**request for proposals**” means a formal invitation to suppliers to describe how their services, methods, equipment or products can address and/or meet specific needs of the

*Town of Mulgrave Policy & Procedures Manual*  
*Purchase and Tendering Policy*

Town of Mulgrave and is governed by guidelines stipulated in section eight [8] of this Policy;

(5) “**request for quotations**” means a process whereby municipal staff request quotations for goods and services and is governed by guidelines stipulated in section nine [9] of this Policy;

(6) “**traditional tender**” means a formal, competitive, sealed bidding process for goods and services defined by clearly stated criteria and specifications, in respect of which an award can be made without negotiation and is governed by guidelines stipulated in section ten [10] of this Policy.

(7) “**CAO**” means the Chief Administrative Officer of the Town of Mulgrave.

(8) “**Sustainability**” means the current economic and consumption patterns should not reduce opportunities for future generations by impairing or depleting existing resources.

4. Contracts related to tenders shall not be awarded unless the goods or services have been budgeted for or otherwise approved by Town Council.

5. All amounts or dollar limits indicated in this policy are to be considered sales tax excluded.

6. All contracts for construction projects must be awarded to firms that have a Certificate of Recognition, or confirmations of being in the process to receive this certificate, from the Nova Scotia Construction Safety Association. A comparable certificate from the Nova Scotia Safety Council or other safety organization is an acceptable substitute. The CAO may waive this requirement where there are no firms with the required certificate available to perform the work.

7. Before any contract is awarded, a contractor, providing that the contractor is operating in a mandatory industry as defined in the Workers Compensation Act, shall make available to the Town a current Workers Compensation Clearance Letter.

**Guidelines Governing Requests for Proposals, Requests for Quotations and Traditional Tenders:**

8. A request for proposals is normally used for professional services or when a supplier is invited to propose a solution to a problem, requirement or objective. Negotiations may be conducted with a proponent after the date when proposals have been received, subject to complying with the terms of the request for proposal which shall be drafted to avoid unfair “bid-shopping” by the Town of Mulgrave. In order to preserve confidentiality of sensitive commercial information contained in a proposal, a proposal need not be submitted in response to a request for a proposal need not be opened in public but will be opened in the presence of at least two representatives of the Town of Mulgrave. A list of the proponents will be available to the public and the proponents upon request. An award of a contract based upon a request for proposals will be made to the supplier whose proposal is determined to be the most advantageous to the Town of Mulgrave based upon criteria as set out in the request for proposals and equitably applied to all proposals.

9. When a request for quotations process is used, quotations will normally be sought from at least three suppliers. However, a lesser number of suppliers may be used when three suppliers are not available within a reasonable distance, having regard to the value of the goods and services, the shipping or travel cost and the amount of time available before the goods and services are required to be available. Quotations shall be sought in writing, but when time does not permit the obtaining of written quotations, the quotations may be obtained verbally, except when this Policy stipulates otherwise. A written record of any verbal quotation, including the time, date, supplier, price and description of the goods and services, the person from whom the quotation was obtained and the name of the municipal staff obtaining the quotation is kept on file.

10. In traditional tenders, the award is normally made to the lowest total cost bid received from a responsible bidder meeting the requirements of the tender. When circumstances require, a traditional tender may be broken into several phases. Traditional tenders shall be opened in public.

**Procurement Policy Principles:**

11. All procurement carried out by the Town of Mulgrave shall be carried out with a view:

- (1) to ensure equitable, open and transparent process for the acquisition of goods and services by the Town of Mulgrave;
- (2) to avoid any temptation towards or appearance of dishonesty, corruption or favouritism in the procurement of goods and services;
- (3) to encourage competitive bidding wherever possible and, in any event, to minimize the Town of Mulgrave's cost of acquiring goods and services;
- (4) to utilize suppliers who can be expected to provide satisfactory performance;
- (5) to procure necessary goods and services with due regard to the principles of sustainability and therefore to encourage suppliers to supply goods incorporating recycled and/or recyclable materials, where practicable;
- (6) that vendors located in the Town of Mulgrave may be at a competitive disadvantage in terms of their cost of goods and that local access to business services is critical to community sustainability and growth. Whenever the Town purchases items, specifically in the tendering process, if a local preference is to be given, the amount of this local preference must be clearly set out and defined in the specifications for the project. In cases of the purchase of office supplies and office services where there is a margin of 5%, the purchase shall be allowed in favor of in-town suppliers to a limit of \$50. In all other cases where local preference is to be given in the tendering process for projects and services carried out for the Town, all the operative terms of the local preference must be expressed in the invitation to tender;
- (7) When there is not a substantial difference in price/ vendor's past performance/ delivery time/ quality/ servicing and all other things considered, preference for tenders will be prioritized in the following order:

- A) to suppliers from within the Town of Mulgrave

- B) then from suppliers within Nova Scotia;
- C) then from suppliers within Provinces of Atlantic Canada;
- D) then from suppliers within Canada;
- E) then from suppliers from elsewhere.

**Normal Purchasing Practices:**

12. In addition to adhering to the principles in section six [6], normal purchasing practices shall be as follows (all amounts or dollar limits indicated in this section are to be considered sales tax excluded):

*For Goods and Services Having a Value of Less than \$500:*

(1) Goods and services shall be procured under a price agreement or multi-municipal supply program if one exists for the particular goods and services and otherwise shall be purchased from any supplier except if municipal staff have reason to believe that the supplier is not the lowest cost supplier for the item in question or that acquiring the goods and services from that supplier would otherwise not conform with the procurement principles in section eleven [11].

*For Goods and Services Having a Value of More Than \$500 and Less than \$5,000*

(2) Goods and services shall be procured by a price agreement or multi-municipal supply program, if one exists for the particular goods and services, and otherwise by request for quotations;

*For Goods and Services Having a Value between \$5,000 and \$15,000:*

(3) Goods and services shall be procured either by a price agreement or multi-municipal supply program or by request for quotations except that, in addition to any other requirements for the request for quotations process:

- (a) all quotations shall be obtained in writing;
- (b) the request for quotations shall be placed on the Town of Mulgrave's webpage;

*For Goods and Services Having a Value of More Than \$15,000*

(4) Goods and services shall be procured by the public tendering process. Invitations to tender or to submit requests for proposals shall be posted electronically on the Town of Mulgrave's webpage and shall normally be advertised in one or more publications of appropriate circulation.

13. Municipal Council may approve exceptions to the normal purchasing practices outlined in section eleven [11] of this Policy:

- (1) when a more competitive process, normally used for goods and services of higher value is used;

- (2) when the goods and services are only available from one qualified supplier;
- (3) when an emergency requires a more expedited process;
- (4) when the goods and services represent in whole or in part a continuation of goods and services supplied under a previously awarded contract, and a change in supplier would result in discontinuity, higher cost, or other problems;
- (5) when the goods are purchased on a commodity market;
- (6) when an existing contractual arrangement or license, copyright or patent right precludes one or more otherwise applicable procurement processes;
- (7) when goods are being purchased under exceptionally advantageous or unique circumstances such as a bankruptcy or receivership;
- (8) when Council has directed that certain items be purchased from a sheltered workshop program or through another program intended to rectify or ameliorate the circumstances of a disadvantaged group;
- (9) when selecting legal counsel or expert witnesses for the conduct of litigation;
- (10) when the Town of Mulgrave has a standing arrangement for the provision of legal services from the Town of Mulgrave solicitor, accounting or auditing services from the Town of Mulgrave auditor or other professional services from an external professional, provided that the professional firm is appointed at an open Council meeting;
- (11) where the use of a particular supplier is a condition for settling a legal dispute involving the Town of Mulgrave.

#### **Unsatisfactory Suppliers**

14. The Town of Mulgrave may refuse to purchase goods and services from a supplier if, in the opinion of Council, the supplier has not provided satisfactory performance, satisfactory quality goods or has otherwise provided poor value to the Town of Mulgrave in dealings within the preceding three years.

#### **Authority to Award Contract**

15. The following outlines limits on procurement authority within the Town of Mulgrave (all amounts or dollar limits indicated in this section are to be considered sales tax excluded):

- (1) Where the value of the goods or services is below \$500 and the purchase is within the Town of Mulgrave's budget, the award or purchase authorization may be made by the CAO, the applicable supervisor, or an employee designated by one of those persons.

(2) Where the value of the goods and services is above \$500 and below \$5,000 the award or purchase authorization may be made by the CAO, the department head or an employee designated by one of these persons.

(3) Where the value of the goods and services is above \$5000 and below \$15,000 the Chief Administrative Officer will award the contract.

(4) Where municipal staff does not have the authority to award a contract, the award will be made by Council, but nothing in this Policy precludes staff from seeking advice or direction from Council in relation to the awarding of any other contract, or from recommending that Council itself award a contract notwithstanding that the contract could be awarded by staff.

(5) In the event of a conflict of interest on the part of a staff member otherwise authorized to award a contract, the award shall be made by the person to whom the conflicted staff member normally reports and the conflicted staff member shall not participate in the process in any manner.

#### **Reporting of Contracts Awarded**

16. All contracts awarded for in excess of \$5,000 (not including sales tax) shall be reported to Council.

#### **Duration of Contracts**

17. Contracts for goods and services, including price agreements, shall normally be re-tendered at least once every five years but may be re-tendered more frequently at the direction of Council.

#### **Lease Arrangements**

18. Lease arrangements are subject to the provisions of this Policy, save and except that Council authority shall be obtained for any leases required by the *Municipal Government Act* to be authorized by Council.

#### **Public Tender Terms**

19. Public tenders shall normally include specifications or terms as follows:

(1) Expressly or by implication outlining the issues or criteria that will be used for the selection of a successful bidder or proponent;

(2) a privilege clause stating that the lowest or any bid or proposal will not necessarily be accepted;

(3) the location for delivery of bids or proposals;

- (4) the means of delivery of bids or proposals must be identified, e.g., whether faxes or e-mails are acceptable in addition to “hard copy” submissions;
- (5) the time and date of closing of the tendering process;
- (6) a warning that tendered documents and bids will be open to the public, except to the extent otherwise stated in a call for tenders or a request for proposals, in which event there shall be included a warning that proposals or bids may be subject to the Freedom of Information and Protection of Privacy provisions of the *Municipal Government Act*.

**Approval of Form of Tender**

20. Public tendering documents are to be reviewed by the Chief Administrative Officer or his or her designate prior to issuance to ensure consistency of tendering documents and practices.

**Expenditures**

21. Expenditures for goods and services made pursuant to this Policy shall be made in compliance with the Town of Mulgrave’s Expenditures Policy.

**Estimating the Value of Goods and Services**

22. Where the value of goods and services governs the procurement process to be used under this Policy or governs what party makes the award, staff shall reasonably estimate the value of goods and services where no definitive information is available to determine the total cost of such goods and services.

**Other:**

23. All staff designated as a purchasing authority shall maintain a file system which records proof of verbal and written quotations and bids.

24. All former Purchase and Tendering policies of the Town of Mulgrave are hereby repealed and this policy is substituted therefore.

**Certification for Town of Mulgrave Policy & Procedures Manual:**

Date of notice to Council Members of Intent to Consider [**7 Day minimum**]: August 26<sup>th</sup>, 2008

Date of Passage of Current Policy: September 2<sup>nd</sup>, 2008

I certify that this *Purchase and Tendering Policy* was adopted by Council as indicated above.

\_\_\_\_\_  
**Municipal Clerk**

\_\_\_\_\_  
**Date**

