

CORPORATION OF THE TOWNSHIP OF ELIZABETHTOWN-KITLEY

BY-LAW 04-45

BEING A BY-LAW TO ESTABLISH PROCUREMENT POLICIES FOR THE CORPORATION

WHEREAS Section 271 of the Municipal Act, 2001, states that a municipality and a local board shall adopt policies with respect to its procurement of goods and services and stipulates the policies which must be addressed;

NOW THEREFORE the Council of the Corporation of the Township of Elizabethtown-Kitley enacts as follows:

1. General Purchasing Procedures

- 1.1 The purchasing procedures laid out in this by-law shall be adhered to by all municipal departments, the Boards, and Committees over which Council has direct control and by their staff.
- 1.2 Department Heads may delegate his or her purchasing authority as assigned to a subordinate, however all responsibility remains with the Department Head.
- 1.3 Joint departmental purchasing shall be done whenever possible. Bulk purchasing is encouraged when practical.
- 1.4 Department Heads shall provide proof of the receipt of all goods and services purchased to the Director of Finance before payment is made to the vendor.
- 1.5 Department heads shall ensure that local suppliers are given the opportunity to provide quotes on goods and services. Should any quotations be equal in price and meet the desired specifications of Council, preference shall be given to the supplier within the Township's limits.
- 1.6 In the absence of the Director of Finance, the Deputy Treasurer shall assume the responsibilities of the Director of Finance under this by-law.
- 1.7 That Schedules A to C (attached hereto) may be amended provided such amendments have been approved by the Council and the amended Schedule(s) have been circulated to affected staff.

2. Budgetary Control and Spending Limits - Operating & Capital Expenditures

- 2.1 Each Department, Committee and Board shall submit its estimates of all sums required during the year to the Director of Finance not later than the 20th day of February in each year, in such form as the Director of Finance may prescribe.
- 2.2 The complete annual draft budget shall be submitted to Council as soon as possible after the first day of March in each year.
- 2.3 Prior to passing of the annual budget, each department shall be allowed an interim appropriation of 40% of the previous year's appropriation, and such interim appropriation shall be deemed to be for routine, necessary or statutory purposes unless otherwise directed by Council
- 2.4 All expenditures shall be within the current approved budget and within approved estimates; otherwise prior approval of Council shall be required. The department head or Director of Finance shall not approve any expenditure that is not within the approved budget or estimates.

- 2.5 All expenditures shall be supported by original invoices, voucher, or requisition forms with satisfactory detail to support the purchase.
- 2.6 All invoices shall be initialled and assigned the proper account number/name by the respective department head and shall be submitted to the Director of Finance for review and approval. Upon review, the Director of Finance shall summarize the purchases on a voucher form and forward it to Council for approval.
- 2.7 Expenditures may, at the discretion of the Director of Finance, be paid prior to Council's approval in order to meet a due date, avoid a penalty or interest charge, receive a discount for early payment or is required by the vendor.
- 2.8 All payments for goods and services shall be made by cheque issued by the Director of Finance, notwithstanding Section 3 of this by-law.
- 2.9 Any emergency expenditure not in the approved budget shall be authorized by the following:
- i) the affected department head, and
 - ii) the Director of Finance, and
 - iii) the Mayor
- 2.10 Department heads may approve expenditures with a value of \$1,000.00 or less.
- 2.11 All expenditures with a value over \$1,000.00 and below \$5,000.00 shall require written quotations, whenever possible, which shall be recorded by the department head on the prescribed form. (Schedule "A" to this by-law).
- 2.12 All expenditures exceeding \$5,000 shall require the prior approval of Council. For items costing over \$5,000 and up to \$10,000, the department head shall obtain, wherever possible, three written quotations for council consideration and approval.
- 2.13 All expenditures in excess of \$10,000 shall be contracted for by Council.
- 2.14 Purchases may be made from a single source without quotations or tenders where,
- i) the compatibility of a purchase with existing equipment and/or facilities is of paramount consideration and that purchase must be made from a single source.
 - ii) an item is purchased for testing or trial use
 - iii) a product is leased or rented by the Township with a credit purchase option, and such purchase would be beneficial to the Township.
 - iv) the consideration for a purchase is to be paid by a third party and that third party agrees to or designates the contractor.
- 2.15 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 Council approved estimates, and

ii) the requirement for the goods or services will continue to exist in subsequent years and , in the opinion of the Treasurer, the required funding can reasonably be expected to be made available.

3. Petty Cash

- 3.1 The petty cash fund shall be administered by the Director of Finance or his/her delegate.
- 3.2 The purpose of the petty cash is to pay for minor purchases, when the supplier has not extended credit to the Corporation or payment by cheque is not practical.
- 3.3 An original receipt or voucher indicating the nature of the expenditure, the supplier, the amount paid including taxes, and the account to be charged shall be provided to the Director of Finance for reimbursement from the petty cash.
- 3.4 The Director of Finance shall determine the amount to be carried in all petty cash funds and determine the method of accounting in accordance to municipal standards set by the Township's Auditors.

4. Tendering and Quotation Procedures (Values of over \$10,000)

- 4.1 All tenders and quotations called and specifications pertaining thereto, shall be prepared under the supervision of the Treasurer.
- 4.2 Except in cases of emergency a minimum of ten days shall elapse from the date of the first insertion of an advertisement or other action initiated to the closing date of all tenders called.
- 4.3 All written tenders and quotations shall be received in sealed envelopes, clearly marked, and directed to the Director of Finance for safekeeping until the opening of the tenders.
- 4.4 All tenders and quotations shall be opened publicly at a predetermined time in the presence of the Director of Finance, the department head and, if possible at least one member of Council.
- 4.5 All tenders and quotations shall include the qualifications that the "lowest or any tender may not necessarily be accepted".
- 4.6 Awards shall be made to the lowest responsible bidder. In determining the lowest responsible bidder consideration may be given, in addition to the price, the bidders:
 - i) Ability and experience to perform in accordance with the terms of the invitation,
 - ii) Record of past performance
 - iii) Financial and technical resources

6. Other

- 6.1 All contracts shall be authorized by by-laws, signed by the Mayor and Director of Finance and sealed with the corporate seal.
- 6.2 Contracts may be amended or renewed by resolution of Council if such a provision exists within the original contract and adheres to all applicable laws and regulations.

- 6.3 No property or material belonging to the Corporation shall be delivered to or used by any member of Council or employee of the Corporation for his personal or private use.
- 6.4 Except as herein provided, no property of the Corporation shall be supplied or used for other than Corporation purposes. Council may give permission to supply materials/equipment for a special purpose if so requested by the Department Head.
- 6.5 This by-law may be cited as “Procurement By-law”.
- 6.6 This by-law shall come into force and take effect on its passing.

Read a First and Second time this _____ day of _____, 2004.

Read a Third time and finally **Passed** this _____ day of _____, 2004.

Mayor

Clerk

SCHEDULE "A"
to
BY-LAW 04-45
Quotations for Purchases

Date	Description of Goods and/or Services	Supplier Name/Address/Phone	Contact Name	Amount

Completed by: _____

Department: _____

Department Head: _____

Date: _____

SCHEDULE “B”

to

BY-LAW 04-45

METHODS OF PROCUREMENT – SUMMARY TEMPLATE

The following are authorized procedures for the procurement of goods, services and construction not available from pre-existing agreements.

	TYPE OF QUOTATION	SOURCE OF BIDS	TYPE OF CONTRACT	APPROVAL AUTHORITY
Under \$1,000				Department Head
\$1,000 to 5,000	Written quotation	Purchases made from the competitive marketplace where possible and practicable		Department Head
\$5,000 to 10,000	Written quotation	Minimum of three where possible		Council
Over \$10,000	Tender or quotation	Advertise on website and local newspaper minimum	Executed Contract where deemed necessary	Council

SCHEDULE “B”

to

BY-LAW 04-45

BID IRREGULARITIES

BID IRREGULARITY

A bid irregularity is a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response.

For the purposes of this policy, bid irregularities are further classified as “major irregularities” or “minor irregularities”.

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 Director of Finance must reject any bid, which contains a major irregularity.

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 Director of Finance may permit the bidder to correct a minor irregularity.

MATHEMATICAL ERRORS – RECTIFIED BY STAFF

The Director of Finance will correct errors in mathematical extensions and/or taxes, and the unit prices will govern. The responsibility for correcting mathematical errors may be delegated to the requisitioning department.

ACTION TAKEN:

The Director of Finance and the Department Head will be responsible for all action taken in dealing with bid irregularities, and acts in accordance with the nature of the irregularity:

- major irregularity (automatic rejection)
- minor irregularity (bidder may rectify)
- mathematical error (additions or extensions) as above

In the event that the vendor withdraws his/her bid due to the identification of a major irregularity, the municipality may disqualify such vendor from participating in a municipal quotations/tender/request for proposal for a period of up to one year.

SCHEDULE “B”, continued
to
BY-LAW 04-45

BID IRREGULARITIES

ITEM	DESCRIPTION	MAJOR	MINOR	ACTION
1.	Late bids, by any amount of time	X		Automatic rejection
2.	Bids completed in pencil	X		Automatic rejection
3.	Bid surety not submitted with the bid when the bid request or any addenda indicated that such surety is required	X		Automatic rejection
4.	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
5.	Execution of bid bond: 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
6.	Other bid security: Cheque which has not been certified	X		Automatic rejection
7.	Bidders not attending mandatory site meeting	X		Automatic rejection
8.	Unsealed tender envelopes	X		Automatic rejection
9.	Proper response envelope or label not used		X	Acceptable if officially received on time
10.	Pricing or signature pages missing	X		Automatic rejection
11.	Insufficient financial security (i.e.: no deposit or bid bond or insufficient deposit)	X, or	X	Where security is required and amount is not specified in request, automatic rejection unless insufficiency is trivial or insignificant Where security is required and amount of security is specified in request, automatic rejection
12.	Bid received on documents other than those provided in request	X		Not acceptable unless specified otherwise in the request

ITEM	DESCRIPTION	MAJOR	MINOR	ACTION
13.	Execution of Bid Documents - proof of authority to bind is missing	X		Automatic rejection
14.	Part bids (all items not bid)	X or	X	Acceptable unless completed bid has been specified in the request
15.	Bids containing minor clerical errors		X	2 working days to correct initial errors. Municipality reserves the right to waive initialling and accept bid.
16.	Uninitialled changes to the request documents which are minor (i.e.; the bidder's address is amended by overwriting but not initialled)		X	2 working days to correct initial errors. Municipality reserves the right to waive initialling and accept bid.
17.	Alternate items bid in whole or in part		X	Available for further consideration unless specified otherwise in request
18.	Unit prices in the schedule of prices have been changed but not initialled		X	2 working days to correct initial errors. Municipality reserves the right to waive initialling and accept bid.
19.	Other mathematical errors which are not consistent with the unit prices		X	2 working days to correct initial corrections. Unit prices will govern.
20.	Pages requiring completion of information by vendor are missing.	X		Automatic rejection.
21.	Bid documents which suggest that the bidder has made a major mistake in calculations or bid	X, or	X	Consultation with a solicitor on a case-by-case basis.

SCHEDULE "C"

to

BY-LAW 04-45

LEASES

Leases are to be negotiated by the Director of Finance and the Department Head. The recommendation will be forwarded to Council for approval. As a general principle, lease shall be considered when the following conditions are applicable:

- When the expenditure of the goods or services is less than the purchase of the goods and services
- The residual payment on the lease is negligible or justification can be made to accept a residual payment that is higher.

Leases will be treated in the same manner as purchase, based upon the retail value of the lease payment (e.g. a \$25,000 vehicle will be purchased through the tender process, even though the annual payment is less than the amount required to go tender.)

At the expiration of a lease, a replacement goods or product be re-quoted or re-tendered. Automatic "roll-over" of a lease payment into a new product must be authorized by the Director of Finance and/or Council as appropriate.

The report to Council recommending the entering into a lease agreement will require the Director of Finance to include the following information:

- Value of product or service if being purchased
- Length of the lease
- Monthly and annual lease payments
- Residual amount
- Interest

Once a lease has been negotiated and approved, a copy of the lease and documents must be forwarded to the Director of Finance.