

THE CORPORATION OF THE CITY OF NORTH BAY

PURCHASING BY-LAW 2004-196

Whereas section 271 of the Municipal Act of 2001 requires the municipality to update Purchasing By-law 2000-16 and its purchasing procedures according to the best practices and policies available to ensure the competitive, efficient and transparent acquisition of goods and service;

- (a) the types of procurement processes that shall be used;
- (b) the goals to be achieved by using each type of procurement;
- (c) the circumstances under which each type of procurement process shall be used;
- (d) the circumstances under which a tendering process is not required;
- (e) the circumstances under which in-house bids will be encouraged;
- (f) how the integrity of each procurement process will be maintained;
- (g) how the interests of the municipality or local board, as the case may be, the public and persons participating in a procurement process will be protected;
- (h) how and when the procurement processes will be reviewed to evaluate their effectiveness; and,
- (i) any other prescribed matter.

And whereas the City will acquire goods and services only in a manner that complies with this By-law and its Purchasing Policy and appropriate purchasing principles for the public sector, reflects a high standard of business ethics and does not favour or discriminate, and is cost effective and results in the best value for the City.

And whereas Council has passed a resolution dated November 29, 2004 to authorize the presentation of this By-Law.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF NORTH BAY HEREBY ENACTS AS FOLLOWS:

Part 1 DEFINITIONS

In this By-law,

- 1.1 “Authorized delegate” means a person authorized by the Chief Administrative Officer to act in another capacity for a specific period of time or for a specific purpose or both;
- 1.2 “Business unit” includes the Office of the Chief Administrative Officer.
- 1.3 “City” means The Corporation of the City of North Bay.
- 1.4 “Designate” means a employee authorized by the Managing Director to act on his behalf for the purposes of this By-Law.
- 1.5 “Manager of Purchasing” means the Manager of Purchasing of the City of North Bay with the authority to contractually bind the City of North Bay according to the terms of this by-law.
- 1.6 “Managing Director” includes the City Engineer, and, where appropriate, the Chief Administrative Officer;
- 1.7 “Purchase Order” means a contract between the City of North Bay and a supplier to supply a specific quantity of goods or services defined by such things as time period, destination and price.

- 1.8 “Purchasing Policy” means the policy adopted by resolution of council on August 30, 1999, as amended from time to time by Council resolution.

Part 2 PURCHASING STANDARDS

- 2.1 The City will acquire goods and services only in a manner that complies with this Policy and appropriate purchasing principles for the public sector, reflects a high standard of business ethics and does not favour or discriminate, and is cost effective and results in the best value for the City.
- 2.2 Codes of ethics endorsed by the National Institute of Governmental Purchasing, the Purchasing Management Association of Canada and the City of North Bay may be used to provide guidance.
- 2.3 Goods and services acquired by the City will comply with the City's requirements and with all standards, codes and regulations prescribed by law, to ensure maximum benefit to and to protect the health and safety of the City, its employees and the public.
- 2.4 Purchasing needs assessments and purchasing planning will consider alternatives, timing and supply strategies, and the effective and economical management of goods and services throughout their useful life.
- 2.5 In calling for tenders, proposals or quotations, the City shall incur no obligation to accept any bid, tender, proposal or quotation.
- 2.6 The City will consider relevant Provincial and Federal initiatives in the procurement plans of City purchases.

Part 3 RESPONSIBILITIES - PURCHASING DIVISION

- 3.1 The Purchasing Division will administer, in compliance with this by-law and the Purchasing Policy, through the Manager of Purchasing, a centralized procurement function for the benefit of all City business units and of those other entities on behalf of which the City is responsible by contract or otherwise for acquiring goods and services.

Part 4 RESPONSIBILITIES - MANAGING DIRECTORS

- 4.1 The Managing Directors will acquire goods and services for the purposes of their business units, and for the purposes of those other entities on behalf of which the City is responsible by contract or otherwise for acquiring goods and services, through the centralized procurement function of the Purchasing Division and in compliance with this by-law.
- 4.2 In acquiring goods and services, the Managing Directors shall:
- (1) ensure that approved budgetary allowances are not exceeded without the approval, obtained in advance wherever possible, of the Chief Administrative Officer or the City Council;
 - (2) provide written details with regard to vendor performance;
 - (3) monitor contract expiration dates and the progress of projects and acquisitions to ensure satisfactory completion.
 - (4) review the estimated quantities used by Purchasing in solicitations on a yearly basis.

Part 5 PURCHASES TO \$2,000

- 5.1 The Managing Directors are hereby authorized to purchase goods or services having a value to and including \$2,000 and may delegate that authority as required within their business units.
- 5.2 Such purchases may be made by means of a Rapid Purchase Order, Field Purchase Order, Blanket Order, Corporate Purchasing credit or debit card (or such other means as may be authorized from time to time by the Manager of Purchasing issued directly to a vendor).

Part 6 PURCHASES - \$2,001 TO \$ 5,000

- 6.1 The Managing Directors are hereby authorized to purchase goods or services having a value from \$2,001 to and including \$5,000, but may not delegate that authority except to an individual authorized delegate.
- 6.2 Such purchases will be made by means of a Purchase Requisition issued by a business unit, approved by the business unit's Managing Director or his authorized delegate, and forwarded to the Purchasing Division for transaction completion.
- 6.3 The method of solicitation will normally be by verbal quotes or written, by fax or a request for quotation document sent to at least three potential vendors, although the Purchasing Manager may in his discretion use another method, or fewer vendors, if circumstances warrant and to do so is not contrary to the best interests of the City.
- 6.4 Responses to the solicitation will be evaluated by the Manager of Purchasing, in consultation with the business unit, subject to oversight by the Chief Administrative Officer, and the Purchasing Division will issue the Purchase Order to the selected vendor.

Part 7 PURCHASES - \$5,001 TO \$20,000

- 7.1 The Managing Directors are hereby authorized to purchase goods or services through the Purchasing Department having a value from \$5,001 to and including \$20,000, but may not delegate that authority except to an individual authorized delegate.
- 7.2 The method of solicitation will normally be by request for quotation sent to at least three potential vendors, although the Manager of Purchasing may in his discretion use another method, or fewer vendors, if circumstances warrant and to do so is not contrary to the best interests of the City.
- 7.3 Responses to the solicitation will be evaluated by the Manager of Purchasing, in consultation with the business unit, subject to oversight by the Chief Administrative Officer, and the Purchasing Division will issue the Purchase Order to the selected vendor.

Part 8 PURCHASES - \$20,001 TO \$50,000

- 8.1 The Chief Administrative Officer is hereby authorized to purchase goods or services through the Purchasing Department having a value up to and including \$50,000 but may not delegate that authority except to an individual authorized delegate.
- 8.2 The method of solicitation will normally be by request for quotation sent to at least three potential vendors, although the Manager of Purchasing may in his discretion use another method, or fewer vendors, if circumstances warrant and to do so is not contrary to the best interests of the City.
- 8.3 Responses to the solicitation will be evaluated by the Manager of Purchasing, in consultation with the business unit, subject to oversight by the Chief Administrative Officer, and the Purchasing Division will issue the Purchase Order to the selected vendor.

Part 9 PURCHASES OVER \$50,000

- 9.1 Purchases over \$50,000 will be subject to the specific approval by resolution and by-law, as required, of City Council.
- 9.2 Such purchases will be made by means of a Purchase Requisition issued by a business unit, approved by the business unit's Managing Director or his authorized delegate, and forwarded to the Purchasing Division for processing.
- 9.3 The method of solicitation will normally be by public tender, although the Manager of Purchasing may in his discretion use another method, or restricted tendering, if

circumstances warrant and to do so is not contrary to the best interests of the City, in the opinion of the Chief Administrative Officer.

- 9.4 Responses to the solicitation will be evaluated by the Manager of Purchasing, in consultation with the business unit, and reported to the Chief Administrative Officer, who will recommend a vendor to the City Council, and the Purchasing Division will issue the Purchase Order to the vendor approved by City Council resolution or by-law, as required by the solicitation.

Part 10 PROCUREMENT PROCESS

PURCHASING BY TENDER

- 10.1 Goal – The City shall implement an effective, objective, fair, open, transparent, accountable and efficient process for obtaining competitive bids based on precisely defined requirements for which a clear or single solution exists.
- 10.2 The tender closing date and time will be set by the Manager of Purchasing. Any extension of the closing date or time will be at the discretion of the Manager of Purchasing, subject to the Purchasing Policy. No extension will be issued on the day of the most recently set closing date, or on the business day immediately preceding that day. Notice of every extension will be given by mail, courier, telephone, e-mail or facsimile to each vendor listed as receiving tender material.
- 10.3 The opening of responses to tenders will be held in public, in the presence of at least two City representatives, including a member of City Council or senior management where possible. When all the responses have been opened announced, and the information recorded, the tender summary sheet will be closed off and the City representatives present will sign the sheet. The contents of responses to tenders shall not otherwise be published prior to the award of a contract by City Council.
- 10.4 Responses to tenders will be evaluated by the Manager of Purchasing, in consultation with the business unit, and reported to the Chief Administrative Officer, who will recommend a vendor to the City Council, and the Purchasing Division will issue the Purchase Order to the vendor approved by City Council.
- 10.5 The report and recommendation will contain the tender results, budget information, additional project costs over and above the tendered price, the project manager and the recommended vendor.
- 10.6 The report and recommendation will be signed by the Manager of Purchasing (as to compliance with the City's Purchasing Policy), the Director of Financial Services (as to compliance with the approved budget) and the Managing Director or delegated project manager (as to compliance with needs).

PURCHASING BY PROPOSAL

- 10.7 Goal – The City shall implement an effective, objective, fair, open, transparent, accountable and efficient process for obtaining unique proposals designed to meet broad outcomes to a complex problem or need for which there is no clear or single solution resulting in best value to the City.
- 10.8 From time to time, a requirement may exist where, in the opinion of the Manager of Purchasing, solicitation by request for proposals is appropriate, especially where the goods or services cannot easily be defined or where negotiations could result and responses to requests for proposals will be evaluated according to the Purchasing Policy. Responses to requests for proposals will be evaluated by a senior management group with the assistance of the Manager of Purchasing, or by the Manager of Purchasing in consultation with the business unit, in each case subject to oversight by the Chief Administrative Officer.
- 10.9 The evaluation will be based on a set of detailed criteria designed by the Manager of

Purchasing and the business unit, subject to oversight by the Chief Administrative Officer, that would offer best value to the City. Such criteria may include demonstrated competence, experience, professional qualifications, and the technical merits of the proposal at a fair and reasonable compensation.

- 10.10 Where the value of the goods or services exceeds \$50,000, or where City Council approval is otherwise necessary or appropriate, the result of the evaluation will be reported to the Chief Administrative Officer, who will recommend a vendor to the City Council, and the Purchasing Division will issue the Purchase Order to the vendor approved by City Council.
- 10.11 The report and recommendation will be signed by the Manager of Purchasing (as to compliance with the City's Purchasing Policy), the Director of Financial Services (as to compliance with the approved budget) and the Managing Director or delegated project manager (as to compliance with needs).
- 10.12 Where the value of the goods or services is equal to or less than \$50,000, and City Council approval is not otherwise necessary or appropriate, the result of the evaluation will be reported to the Chief Administrative Officer, and the Purchasing Division will issue the Purchase Order

PURCHASING BY REQUEST FOR QUOTATION

- 10.13 Goal - The City shall obtain competitive pricing for a one-time procurement in an expeditious and cost effective manner through phone, fax, e-mail, other similar communication method, vendor advertisements or vendor catalogues.
- 10.14 The Manager of Purchasing will prepare the solicitation document and send it to at least three potential vendors, although the Manager of Purchasing may in his discretion use another method, or fewer vendors, if circumstances warrant and to do so is not contrary to the best interests of the City.
- 10.15 Responses to the solicitation will be evaluated by the Manager of Purchasing, in consultation with the business unit, subject to oversight by the Chief Administrative Officer, and the Purchasing Division will issue the Purchase Order to the selected vendor.

INFORMAL LOW VALUE PROCUREMENT

- 10.16 Goal – The City shall obtain competitive pricing for a one-time procurement in an expeditious and cost effective manner through corporate purchasing credit cards, phone, fax, e-mail, other similar communication method, vendor advertisements or vendor catalogues.
- 10.17 When a commodity is required on a one time (non-repetitive basis). The end user of the commodity has identified a clear or single solution and precisely defines technical requirements for evaluating bids or proposals. Informal bids are sought from known suppliers. When evaluating bids from qualified bidders, price is the primary factor and is not negotiated. The award is normally a purchase order if other than corporate credit card.

Part 11 NON COMPETITIVE PROCUREMENT

Although competition is the cornerstone of the purchasing process and all purchases are to be competitive where feasible, there are circumstances where this is not possible or in the best interest of the City. In certain situations goods/services are required to be purchased without a competitive bidding process. Non competitive procurement is permitted under this By-law in the following circumstances:

- 11.1 When an unforeseeable condition of urgency exists, for emergency, protection and security concerns and the goods or services cannot be obtained in time through a competitive process.
- 11.2 When the required item is covered by an exclusive right such as a patent, copyright or exclusive licence.

- 11.3 When the purchase is already covered by a lease-purchase agreement where payments are partially or totally credited to the purchase.
- 11.4 When it is necessary to ensure compatibility with existing products or to avoid violating warranty/guarantee requirements when service is required.
- 11.5 When no bids were received in a competitive process.
- 11.6 When the required item is in short supply due to market conditions.
- 11.7 When competitive sourcing for low value procurement would be uneconomical or would not attract bids.
- 11.8 When competitive procurement may be found to be impractical for such items as meal expenses, incidental travel expenses (e.g. taxi service, phone calls), and training and education expenses.
- 11.9 When individual performer contracts are being considered for public performances, where facility rental only is not a viable option, where a business case is recommended and where Council consultation has occurred.
- 11.10 At the discretion of the Manager of Purchasing.

Part 12 IN-HOUSE BIDS

At the discretion of the Manager of Purchasing and with the approval of the Chief Administrative Officer the City may consider In-House Bids.

Regardless of the solicitation method shall be specified to all bidders that In-House Bids may be considered.

Regarding the disposal of assets, City of North Bay employees may bid on surplus items only if the items are being offered for public sale.

Part 13 DEPOSITS AND SECURITIES

- 13.1 (1) In order to enable the City to enforce execution of a contract by a bidder, either;
 - (i) a tender deposit as detailed below may be required;

Bid Value	Deposit Required
50,000 or less	\$0.00
\$50,000 to \$100,000.	\$1,000.
\$100,000 to \$250,000.	\$5,000.
\$250,000. to \$500,000.	\$10,000.
\$500,000 to \$1,000,000.	\$20,000.
\$1,000,000 and above	Bid Bond in the amount of 15%

- (ii) a bid bond issued by a licensed bonding or surety company (in a form provided or approved by the City) equal to 15% of the total tendered price (or such other amount as may be required in the tender document) may be provided in place of a tender deposit.

- (iii) A vendor may be permitted to substitute an alternate form of security subject to the approval of any two of the Chief Administrative Officer, the City Solicitor and the Manager of Purchasing.

- (2) Every tender deposit, except those of the recommended vendor and of the second low responsive vendor or vendors, will be returned or retained according to the Purchasing Policy.

- 13.2 In order to enable the City to enforce completion of a contract by a vendor or the payment of labour and material suppliers, contract security will be required to be provided by the vendor within ten days of the acceptance of any contract, as follows, if requested in the solicitation

document:

- (1) a performance bond issued by a licensed bonding or surety company (in a form provided or approved by the City) equal to 100% of the total tendered price (or such other amount as may be required in the tender document) where the estimated value of the goods or services exceeds \$500,000, or;
- (2) a labour and materials bond issued by a licensed bonding or surety company (in a form provided or approved by the City) equal to 100% of the total tendered price (or such other amount as may be required in the tender document) where the estimated value of the goods or services exceeds \$500,000, or;
- (3) any combination of performance bond and labour and materials bond required by the tender.

13.3 A vendor may substitute an alternate form of security subject to the approval of any two of the Chief Administrative Officer, the City Solicitor and the Director of Financial Services.

Part 14 EMERGENCY PURCHASES

14.1 Where an emergency purchase has been placed by a business unit directly with a vendor without following the procedures provided in this By-law or the Purchasing Policy, as soon as possible after the event, but in no case more than two business days later, the Managing Director or his authorized delegate shall,

- (1) report the purchase with full particulars to the Chief Administrative Officer, where the purchase exceeded \$10,000 and to the Manager of Purchasing;
- (2) forward a Requisition, to the Purchasing Division for transaction completion.

Part 15 PURCHASE OF UTILITIES AND GOVERNMENT SERVICES

15.1 The supply or relocation of utilities, including gas, electricity, telephone, telecommunications and government fees associated with those services or other government services, may be purchased by a business unit without a Purchase Order.

Part 16 VENDOR PERFORMANCE

16.1 Managing Directors shall complete a performance report on the performance of all vendors who complete any contract over \$20,000, and on other selected contracts, which report will be evaluated by the Manager of Purchasing, in consultation with the business unit, subject to oversight by the Chief Administrative Officer.

16.2 Any vendor whose evaluated performance is found to be lacking in any material respect may, at the discretion of City Council, be subject to the provisions of the Vendor Performance Policy.

Part 17 PAYMENT

17.1 Financial Services will pay for all goods and services for which a Purchase Order has been issued and which have been acknowledged as received by an appropriate authority.

17.2 Financial Services will pay for goods and services supplied under a contract upon receipt of a progress certificate according to the Purchasing Policy.

Part 18 CONTINGENCY MANAGEMENT

18.1 Where the expenditure limit of a contract is expected to exceed the approved amount, but the project remains within its approved budget, including contingency,

- (1) the Managing Director responsible for the project or his authorized delegate may approve the overage so long as the amount of the cumulative overages for the contract is equal to or less than 10% of the value of the contract; and
- (2) the Chief Administrative Officer or his authorized delegate may approve the overage so long as the amount of the cumulative overages for the contract is equal to or less than

15% of the value of the contract.

- 18.2 If the amount of the cumulative overages approved for a contract is expected to exceed 15% of the value of the contract, the matter will be referred to City Council for consideration.

Part 19 DISPOSAL OF ASSETS

- 19.1 Where any goods are surplus, unusable, unrepairable or obsolete, the Managing Director of the business unit to which they belong will advise the Purchasing Division which will seek a user for them in another business unit or declare them as surplus and dispose of them according to the Purchasing Policy.

- 19.2 Where the goods cannot be used by any business unit, they will be declared "surplus assets", and disposed of according to the Purchasing Policy.

- 19.3 All asset disposal and proceeds distribution will be reported to the Chief Administrative Officer and or City Council.

Part 20 INTEGRITY AND INFLUENCE

- 20.1 No person, company, corporation or organization shall attempt in any way, either in private or in public, to influence the outcome of any City purchasing or disposal process.

- 20.2 The bid, quotation or proposal of any person, company, corporation or organization that does attempt to influence the outcome of any City purchasing or disposal process will be disqualified, and the person, company, corporation or organization may be subjected to exclusion or suspension under the Vendor Performance Policy.

- 20.3 This Part does not apply to employees of the City whose duties include evaluating or making recommendations respecting City purchases or dispositions, while they are carrying out those duties, or those of whom they must inquire in the course of a previously authorized inquiry.

Part 21 PREFERENCE FOR LOCAL SUPPLIERS

- 21.1 The Ontario Discriminatory Business Practices Act (R.S.O. 1990) shall be applied to prevent discrimination in Ontario on the ground of race, creed, colour, nationality, ancestry, place of origin, sex, or geographical location of persons employed or engaging in business.

Part 22 REVIEW

- 22.1 This BY-Law shall be reviewed by City Council every five (5) years or at such time major revisions are made.

23. This by-law comes into effect as of January 1, 2005.

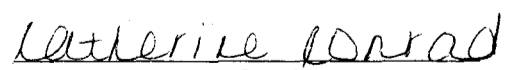
24. By-law No. 2000-16, as amended, is hereby repealed.

READ A FIRST TIME IN OPEN COUNCIL THIS 13TH DAY OF DECEMBER 2004.

READ A SECOND TIME IN OPEN COUNCIL THIS 13TH DAY OF DECEMBER 2004.

READ A THIRD TIME IN OPEN COUNCIL AND ENACTED AND PASSED THIS 13TH DAY OF DECEMBER 2004.


MAYOR


CITY CLERK