

Financial

Chapter 0376 Procurement of Goods and Services

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WHEREAS The Municipal Act 2001, SO 2001, c. 25 Part VI, s. 270(1), as amended, requires a municipality to adopt policies with respect to its procurement of goods and services;

AND WHEREAS the Council of the Corporation of the City of Woodstock has deemed it desirable to set out its policies with respect to the Purchase or

Disposal of Goods and/or Services to ensure:

- a. That all purchases of materials, supplies and services provide the lowest costs, including where appropriate, life cycle costs, consistent with the required quality and service.
- b. That an open and honest process shall be maintained that is fair and impartial.
- c. That the purchasing policy will promote and maintain the integrity of the purchasing process and protect Council, vendors and staff involved in the process by providing clear direction and accountabilities.
- d. That the purchasing policy will comply with all applicable municipal policies and bylaws and the specific provision of the Municipal Act, and all other applicable Federal and Provincial legislation including any international standards implemented by the Federal Government.
- e. That under this Policy and Pursuant to the Accessibility for Ontarians with Disabilities Act, 2005 ("AODA") as may be amended from time to time, and regulations under this Act, the City of Woodstock shall consider accessibility criteria and features when procuring or acquiring goods, services or facilities except where it is not practicable to do so in which case an explanation will be provided. All competitive bids will incorporate measures to ensure that customer services are available to everyone, including persons with disabilities.

Article 1 - Interpretation

376.1.1 Bid - defined

"bid" shall mean a submission from a prospective vendor in response to a request for the purchase of goods or services issued by the City.

376.1.2 Bid Deposit – Defined

"bid deposit" shall mean a financial guarantee to ensure the successful bidder will enter into an agreement.

376.1.3 Bidding System – Defined

"bidding system" shall mean the Online Web-Based Solution for issuing bids, and/or receiving online submissions and posting bid results.

376.1.4 Blanket Order – Defined

“blanket order” shall mean the agreement wherein a vendor will sell certain items to the City for an agreed period of time with established terms and conditions.

376.1.5 CAO – defined

“CAO” shall mean the Chief Administrative Officer appointed by the Council to exercise general control and management of the affairs of the municipality.

376.1.6 Council - defined

“Council” means the Municipal Council of The Corporation of the City of Woodstock.

376.1.7 Department head - defined

“Department Head” shall mean a head of a department operating within the City of Woodstock.

376.1.8 Electronic bidding - defined

“electronic bidding” shall mean a method of issuing bids and or receiving bids.

376.1.9 Emergency Purchase – Defined

“emergency purchase” shall mean a purchase made in a crisis situation where immediate action is required to prevent the possible loss of life or property or significant financial loss or environmental impacts.

376.1.10 Formal quotation - defined

“formal quotation” shall mean a document that sets out particular requirements for goods and/or services.

376.1.11 Generic - defined

“generic” shall mean that no specific brand or name shall be included as part of the specifications unless such a brand or name is required to identify the intent of a purchase, order or proposal.

376.1.12 Informal quotation - defined

“informal quotation” shall mean a competitive bid process for goods or services that is conveyed and received from bidders in a written format by e-mail, mail or fax.

376.1.13 Life cycle cost – defined

“life cycle cost” shall mean an assessment of the complete cost of an item including initial engineering, design, and construction costs as well as ongoing operational and maintenance costs over the life span of the item.

376.1.14 Purchasing Card – Defined

“purchasing card” means a card that can be used by authorized employees of the Corporation to purchase goods.

376.1.15 Purchase order - defined

“purchase order” means the legal document that is the Corporation’s commitment to the supplier for the value of the goods or services ordered. It is also the supplier’s authority to ship and charge for the goods specified on the order.

376.1.16 Requisition - defined

“requisition” means a written or electronically transmitted request on an approved form, which is sent to purchasing to procure goods or services.

376.1.17 Sealed bids - defined

“sealed bids” are bids submitted in a sealed envelope to a specified location, by a specified date.

376.1.18 Services - defined

“services” shall mean items such as telephone, gas, water, hydro, janitorial and cleaning services, consultant services, training, legal surveys, medical and related services, insurance, leases for grounds, buildings, office or other space required by the Corporation and the rental, repair or maintenance of equipment, machinery, or other personal and real property.

376.1.19 Supplies - defined

“supplies” shall mean goods, wares, merchandise, material and equipment.

376.1.20 Tender - defined

“tender” means a document, which sets out particular specifications for the commodity or service required. This can also refer to an offer in writing to execute some specified work or to provide some specified articles at a specified rate.

376.1.21 The Corporation of the City of Woodstock – defined

“The Corporation of the City of Woodstock” herein is also referred to as the “City” or the “Corporation.”

376.1.22 Vendor - defined

“vendor” shall mean any person or enterprise supplying goods or services to The Corporation of the City of Woodstock.

Article 2 - Purchasing Responsibilities

376.2.1 Expenditure authorization - Council

Council has the ultimate authority for all expenditures and delegates this authority by the authorization of budgets or by specific resolution. This Chapter provides guidelines outlining how spending authority is to be used.

376.2.2 Approval of accounts - Department Head

The appropriate Department Head or designate shall be responsible for approval of accounts within the approved budget for such division or any amendment to same as approved by Council.

376.2.3 Prequalification – Department Head

A Department Head may choose to prequalify contractors or consultants for projects prior to the issuance of the tender documents or a Request for Proposal. Subject to having documents procedures in place, projects that could be considered for prequalification may include projects with a large cash flow (i.e. greater than 1.5 million), construction projects requiring specific expertise or equipment or consulting projects that required specific expertise.

Article 3 - Purchasing Guidelines and Methods

376.3.1 Tender purchases - goods/services - exceeding \$50,000

All purchases of goods and services exceeding \$50,000 will be made only after formal tenders have been called.

376.3.2 Tender - approval - not required - conditions

Council approval of the tender is not required if all of the following conditions have been met:

- a. the project has been approved in the current year estimates.
- b. more than one bid has been received.
- c. the successful bid is under budget.
- d. the contract is being awarded to the lowest bidder, meeting the specifications.
- e. the total value of the tender is less than \$750,000.
- f. there are no senior government requirements for Council approval of a tender.

376.3.3 Project over budget - approval of funds – conditions

In the event that a project is over budget but meets all of the other criteria, the CAO is authorized to approve the transfer of the unspent funds for like projects which form part of the approved Capital Budget.

376.3.4 Approval of tender - execution - reporting

When the criteria listed have been met, the Department Head, with the approval of the CAO, shall award the tender and the Mayor and Clerk are authorized to execute the necessary agreements. A list of such tender awards shall be provided to Council annually.

376.3.5 Exceptions- Council approval required

In all other cases, Council approval is required.

376.3.6 Tenders awarded - information posted on website

As tenders are awarded they will be posted on the City website and shall include a brief description of the project, project number (if applicable), the successful bidders name the amount of the approved bid.

376.3.7 Formal quotation - over \$25,000 - less than \$50,000

For the purchase of goods or services over \$25,000 and less than \$50,000, at least three sealed bids will be solicited before the purchase is made and the purchase shall be made from the lowest bidder meeting the specifications as approved by the appropriate Department Head or designate.

376.3.8 Project over budget - approval of funds – conditions

In the event that a project is over budget, the CAO is authorized to approve the transfer of unspent funds to make up shortfalls in funds for like projects, which form part of the approved capital budget.

376.3.9 Informal quotation - over \$10,000 - less than \$25,000

For the purchase of goods or services over \$10,000 and less than \$25,000, staff will obtain three written quotations wherever possible. Bid documents and specifications (as applicable) can be issued and received by mail, e-mail and/or fax transmissions at the department’s location.

376.3.10 Lowest bidder - meeting specifications - as approved

The purchase shall be made from the lowest bidder meeting the specifications as approved by the appropriate Department Head or designate.

376.3.11 Requests for proposals - when used

A Department Head or designate may use a request for proposal in place of a tender or quotation when goods or services cannot be specifically stipulated or when alternative methods are being sought to perform certain functions or services.

376.3.12 Request for proposals - evaluation criteria

The evaluation criteria and process shall be approved by the Department Head prior to the issuance of the request for proposal.

376.3.13 Preferred proposal - exceeding budget – authority

When preferred proposal exceeds the approved budget appropriation, the CAO is authorized to approve the transfer of unspent funds to make up shortfalls in funds for like projects, which form part of the approved capital budget.

376.3.14 Purchase orders - goods between \$5,001 and \$9,999

The purchase of goods and services between \$5,001 and \$9,999 shall be done by purchase order except as provided elsewhere in this policy.

376.3.15 Blanket orders - multi-department responsibility

The Department Head or designate may establish blanket orders using the applicable bid mechanism based upon the estimated annual expenditure. Blanket orders will be coordinated and issued by Administrative Services for all City departments as applicable. Blanket orders shall be issued for a specific time period with all ordering departments responsible for maintaining purchases within budget allocations.

376.3.16 Amount exceeds \$9,999 - vendor selection criteria

When purchasing goods and services for amounts not exceeding \$9,999.99 the Department Head or designate shall be authorized to select vendors not solely on the basis of cost, but also on ability, quality or workmanship, service, availability, overall performance and experience without first obtaining quotations.

376.3.17 Purchasing cards - use - purchase under \$5,000

Whenever possible, the purchase of goods and services for \$5,000 or less shall be done by purchasing card. At no time should any City employee use a personal credit card to purchase goods and services required by the City.

376.3.18 Purchase by negotiation - conditions

A Department Head or designate may purchase by negotiation with one or more vendors under which a formal bid process may be waived under the following conditions:

- a. when market conditions and in the judgment of the CAO and the Department Head or designate, the goods are in short supply or when there is only one source of supply.
- b. when two or more identical bids have been received, the Department Head or designate may negotiate with the two lowest bidders, keeping all negotiations fair and ethical.

- c. when the lowest bid meeting specifications exceeds the estimated costs by at least 10% and it is not viable or in the best interest of the City to reissue the tender.
- d. Council approval is required for all bids awarded under this Section.

Article 4 - Bid Administration - General

376.4.1 Bid closing and opening - requirements

All tenders expected to exceed \$50,000 will be opened at a public opening with the exception of requests for proposals, or when specifically requested by Council. The place and time of the opening will be specified in the bid documents and will be attended by at least two City staff members and may be conducted electronically.

376.4.2 Conditions applicable to all submissions - set out

The following conditions apply to all submissions whether they are formal or informal:

- a. Bid submissions must be received in the manner as specific in the bid document. No exceptions will be permitted.
- b. Bid documents received at the designated City location later than the specified closing date and time will be returned to the bidder. In the case of sealed bids, the bid will be returned to the bidder unopened. No exceptions will be permitted.
- c. A bidder who has already submitted a bid may submit a further bid at any time up to the official closing time. The last bid received will supersede and invalidate all bids previously received by that bidder.
- d. a bidder may withdraw a submitted bid at any time up to the official closing time by letter bearing their signature
- e. bids may be rejected for any of the following reasons:
 - i. bid received after the specified closing date and time as specified in the bid document. No exemptions.
 - ii. bid does not comply with the specified requirements at time of closing.
 - iii. bids which are incomplete, conditional or obscure, or which contain additions not called for, erasures, alterations or irregularities of any kind.

376.4.3 Bid deposits - types

Pursuant to the contract specifications, and as provided by provincial legislation, bid deposits may be required and provided in one of the following formats:

- a. A certified cheque, bank draft, or money order made payable to The Corporation of the City of Woodstock.
- b. An irrevocable letter of credit naming the City as beneficiary (where applicable).
- c. Bid bonds issued by a bonding agency licensed to operate in the Province of Ontario naming the City as the obliged.

376.4.4 Interest not paid on bid deposits

The City does not pay interest on any bid deposits.

376.4.5 Bid deposits - forfeited

The City is authorized to cash and deposit any bid deposit in the City's possession that is forfeited as a result of non-compliance with any of the terms, conditions and/or specifications of a sealed bid.

Article 5 - Bonding Requirements

376.5.1 Department Head - determine bonding requirements

50% Performance, and Labour & Material Payment Bonds shall be required for public contracts over \$500,000. The form of the bond is prescribed by legislation. Letter of credit are no longer permitted for contracts that exceed this threshold.

376.5.2 Alternative security - form of

While nothing precludes the City from requesting bonds for projects under \$500,000, the Department Head or designate may accept alternative security in the form of a certified cheque or irrevocable letter of credit if stated as a requirement in the contract document.

376.5.3 Bonds- original

All bonds must be originals, signed and sealed. No faxes or photocopies will be accepted.

376.5.4 Purchase of used fleet equipment - permitted

Nothing in this Chapter prohibits the purchase of used fleet equipment.

376.5.5 Emergency purchases - authority

In the case of an emergency situation, the appropriate Department Head or designate is authorized to make such purchases from such suppliers and upon such terms and conditions as deemed necessary and the terms of this policy shall not apply.

376.5.6 Exceptions - Council approval required

A Department Head or designate may request exemption from any or all the purchasing methods outlined in this policy by submission of a report requesting the same to Council. Such exemption may be granted by resolution.

376.5.7 Exemptions to policy - set out

This policy shall not apply to:

- a. specific expenditures as authorized by Council such as payments for land purchases, work performed under construction contracts, expropriations, leases and insurance.
- b. professional fees for service such as consultants, auditors, legal fees, medical examinations, Ontario Land Surveyors, property appraisers and other similar situations.
- c. Those purchases that are made when there is a valid reason for consistency or compatibility with good previously acquired to ensure efficient operation of a department.
- d. goods and services provided by utilities, government agencies, Crown Corporation and in-house services.
- e. memberships dues and subscriptions approved in the current budget.
- f. travel expenses, meals, convention and seminar registrations, licenses, educational courses and training programs.

376.5.8 Advertising - tenders

Tenders must be advertised and posted on the Bidding System site unless the project is sole sourced or, the vendor is prequalified.

376.5.9 Advertising - local or applicable publications

Where effective in the opinion of the Department Head, information, regarding the bid document shall be advertised in the local newspaper and/or applicable publications necessary to comply with all existing statutory regulations.

376.5.10 Advertising - city website

Tenders must be advertised on the City's website unless the project is sole sourced or the vendor is prequalified.

376.5.11 Insurance - requirements set out in bid documents

Bid documents must clearly indicate insurance requirements to be provided by the successful bid.

376.5.12 Insurance – minimum requirements

The standard insurance minimums unless otherwise specified in the bid documents are as follows:

- a. \$2 million – commercial general liability policy.
- b. \$2 million – owned automobile liability policy.
- c. \$2 million - homeowners (e.g., for rental of facilities).
- d. \$5 million - general liability and automobile liability policies which cover most public works projects.
- e. professional Errors & Omissions Liability (as applicable).
- f. environmental impact liability (as applicable).
- g. builders risk - 1.1 times the project cost which also applies to testing and commissioning equipment.

376.5.13 Other insurance coverage

The City reserves the right to request such higher limits of insurance or other types of policies appropriate to the Bid as the City may reasonably require from time to time.

376.5.14 WSIB clearance certificate

Clearance certificates for the Workplace Safety & Insurance Board (WSIB) must be obtained for all contractors before work begins to verify that they are registered with WSIB and have an account in good standing. Renewals shall be received when the duration of the work exceeds beyond the expiry date of the clearance certificate. Independent operators shall provide a letter from WSIB confirming their status as an independent operator.

Article 6 - Administration & Review

376.6.1 Director of Administrative Services - authority

This policy will be administered under the general direction of the Director of Administrative Services. The Director of Administrative Services or designate may randomly review departmental purchasing related files on an on-going basis to review the effectiveness and integrity of the processes and policy adherence.

376.6.2 Contract enforcement

It shall be the responsibility of the Department issuing the Bid Documents to enforce the contract terms, conditions, and specifications.

376.6.3 Dividing of contracts - purchases - prohibited

No contract or purchase shall be divided to avoid any requirements of this policy.

376.6.4 Price - prime selection criteria - specifications met

In all purchases, price shall be the prime selection criteria prior to any special provisions or add/delete calculated into the bid price, providing that all specification requirements are met and that in the opinion of the department head or designate, the bidder is qualified and able to supply the products or services required. Such specifications are to be generic or "as equivalent". All factors influencing the purchasing decision are to be included in the specifications.

376.6.5 Co-operative purchasing - Council approval

The City of Woodstock may participate with other units of government, their agencies or public authorities in cooperative purchase ventures when the best interest of the City will be served. Where such participation is at variance with the City's purchasing policy, Council shall first authorize any participation.

376.6.6 Performance evaluation - suppliers – permitted

Performance evaluations may be undertaken on suppliers and providers of service.

376.6.7 City reserves the right to reject or re-issue

Notwithstanding the provisions of this procedure, the City shall have the right to reject the lowest or any bid at its absolute discretion. The City also reserves the right to reissue the bid document in its original format or modified as best suits the requirements of the City.

376.6.8 Retention of documentation

Procurement documents shall be retained as outlined in the City's Retention By-law.

Article 7 – Vendor Conduct

376.7.1 Expected Vendor Behavior

The City expects its Vendors to act in a manner and with integrity and conduct its business in an ethical manner.

376.7.2 Terminate Business Transactions

The City may refuse to engage in a business transaction or may terminate a business transaction with any bidder that has, including but not limited to the generality of the foregoing:

- Engaged in any illegal or unethical bidding practices;
- Has or is in a potential conflict of interest;
- Has created an unfair advance in the procurement

- process; or
- Fails to adhere and carry out ethical business practices.

376.7.3 Legal proceedings against Municipality

No bid or offer will be accepted from any Bidder, inclusive of the Bidder's subcontractors, who has a claim or has instituted a legal proceeding against the City, or against whom the City has a claim or instituted a claim without prior approval of Council. The Bidder will include any non-arms lengths corporation of the Bidder.

376.7.4 Solicitation during bidding process

The City shall be entitled to reject a bid submission if any representative or a Bidder, including any other parties that may be involved in a joint venture, consortium, subcontract, or supplier relationship, makes any representation or solicitation to any elected official, employee, or agent of the City during the bidding period.

Article 8- Disposal of surplus good

376.8.1 Designation by department heads

Department heads or their designates may declare tangible assets and other goods surplus and from time to time may dispose of any surplus goods not required by the Corporation by any of the following:

- a) Offering to any other department
- b) Sale by auction or consignment
- c) Sealed bid
- d) Donation to a charitable organization

376.8.2 No employee purchases

No employee, or the public shall be allowed to purchase surplus goods from the City.

376.8.3 Alternate method of disposal

In the event that the item does not sell by any of the means provided, the department may use an alternate method of disposal for example disposal as scrap metal.

Article 9- Repeal

376.9.1 By-Law previous

By-law 8690-11 is hereby repealed. By-law 9420-20, December 10, 2020.