Financial

Chapter 0376 Procurement of Goods and Services

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376.7.1 By-law-previous

WHEREAS the Council of the Corporation of the City of Woodstock has deemed it desirable to have a procurement by-law to set out guidelines for the municipality to ensure that all purchases of materials, supplies and services provide the lowest costs consistent with the required quality and service, to provide for an open and honest process, to promote and maintain the integrity of the purchasing process and thereby to protect Council, vendors and staff involved in the process by providing clear direction and accountabilities.

AND WHEREAS the *Municipal Act 2001,* S.O. 2001, c. 25, Part VI, s. 271 states that before January 1, 2005, a municipality and a local board shall adopt policies with respect to its procurement of goods and services, including policies with respect to:

a. the types of procurement processes that shall be used.
b. the goals to be achieved by using each type of procurement process.
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 as part of a tendering process;
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 process will be reviewed to evaluate their effectiveness; and

i. any other prescribed matter.

Article 1 - Interpretation

376.1.1 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.

376.1.2 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.

376.1.3 Bid Deposit – Defined

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

376.1.4 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.

376.1.5 Council - defined

"Council" means the Municipal Council of The Corporation of the City of Woodstock

376.1.6 Department head - defined

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

376.1.7 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.

376.1.8 Formal bid - defined

"formal bid" shall mean a sealed bid submission.

376.1.9 Formal question - defined

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

376.1.10 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.

376.1.11 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.

376.1.12 Purchasing Card – Defined
"purchasing card" means a card that can be used by authorized employees of the Corporation to purchase goods.

376.1.13 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.

376.1.14 Requisition - defined
"requisition" means a written or electronically transmitted request on an approved form, which is sent to purchasing to procure goods or services.

376.1.15 Sealed bids - defined
"sealed bids" are bids submitted in a sealed envelope to a specified location, by a specified date.

376.1.16 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.

376.1.17 Supplies - defined
"supplies" shall mean goods, wares, merchandise, material and equipment.

376.1.18 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.

376.1.19 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."

376.1.20 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.

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 Chief Administrative Officer, 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 of tenders, 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.

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 bids expected to exceed $25,000 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.

376.4.2 Conditions applicable to all bid submissions - set out

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

a. bid documents must be submitted and received in the manner as specific in the bid document. No exemptions.

b. bid documents received by 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 exemptions 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, bid deposits may be required and provided in one of the following formats:

a. a certified cheque made payable to The Corporation of the City of Woodstock.

b. money orders made payable to The Corporation of the City of Woodstock.

c. Canadian currency.

d. bid bonds.

e. letter of credit.

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
According to the tender specifications, performance bonds, labour and material bonds may be required for construction projects for a minimum of 50% of the bid amount. The Department Head shall determine the bonding requirements. All bonds must be originals, signed and sealed. No faxed or photocopies will be accepted.

376.5.2 Alternative security - form of
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 Purchase of used fleet equipment - permitted
Nothing in this Chapter prohibits the purchase of used fleet equipment.

376.5.4 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.

376.5.5 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.

376.5.6 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. goods and services provided by utilities, government agencies, Crown Corporation and in-house services.
d. memberships dues and subscriptions approved in the current budget.
e. travel expenses, meals, convention and seminar registrations, licenses, educational courses and training programs.

376.5.7 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.

376.5.8 Advertising - city website

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

376.5.9 Insurance - requirements set out in bid documents

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

376.5.10 Insurance – minimum requirements

The standard insurance minimums are as follows:

a. $2 million - general liability policy.
b. $2 million - 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. builders risk - 1.1 times the project cost which also applies to testing and commissioning equipment.

376.5.11 Professional liability/errors - omissions insurance

The successful consulting firm shall, at its expense, obtain and keep in force insurance satisfactory to the City and issued by an issuer licensed to conduct business in the Province of Ontario. This insurance shall be not less than $2,000,000 and shall be renewed for three years after project completion. The City shall be provided with thirty days' notice of cancellation or intent to non-renew. The City reserves the right to request that an Extended Reporting Endorsement be purchased by the successful consulting firm at the firm's sole expenses. A Certificate of Insurance shall be posted with the City, evidencing policy renewal. In specific cases the City may consider alternative insurance requests based on a risk management assessment by the Department Head.

376.5.12 Asbestos abatement/environmental liability

A contractor, or subcontractor when applicable, shall provide asbestos abatement/environmental impairment liability insurance with limits of no less than $2,000,000 per occurrence. Such insurance shall include all operations associated with hazardous materials removal. If the policy is written on a claims made basis, the contractor shall provide the municipality with proof of renewal for the next 5 years. Should the contractor cancel the policy, within that time period, the contractor must provide the municipality with 60 days notice of cancellation. The municipality may require the contractor to purchase an Extended Reporting Endorsement at the contractor's sole expense.

Asbestos abatement coverage may alternatively be provided under the general liability insurance as specified provided the policy is specifically endorsed to provide this coverage and the limit of liability is in an amount not less than $2,000,000 inclusive per occurrence. A copy of the endorsement or a letter from the insurer verifying coverage is to accompany the Certificate of Insurance.

376.5.13 Environmental liability insurance

The contractor shall, throughout the term of the contract, obtain and maintain in force, environmental liability insurance in a combined amount of not less than an amount to be determined by the City per occurrence, against claims for:

a. bodily injury, including sickness, disease, shock, mental anguish, mental injury.

b. injury to or physical damage to tangible property including loss of use of tangible property, or the prevention, control, repair, cleanup or restoration of environmental impairment of lands, the atmosphere or any water course or body of water on a sudden and accidental basis and on a gradual basis.

376.5.14 Environmental liability insurance - renewal

The policy is to be renewed three years after project completion and a Certificate of Insurance evidencing renewal shall be filed with the municipality. If the policy is to be cancelled or non-renewed for any reason, 90 day notice of said cancellation or non-renewal must be provided to the municipality. The municipality has the right to request that an Extended Reporting Endorsement be purchased by the contractor at the contractor's sole expense.

376.5.15 Public liability insurance - requirements

The successful bidder must furnish the City proof of a liability insurance policy covering public liability and property damage for no less than the minimum amounts previously stated to the satisfaction of the City and in force for the entire contract period from commencement of the work until twelve months

following substantial completion of the project. The policy must contain:

a. a “cross liability” clause or endorsement.

b. an endorsement certifying that The Corporation of the City of Woodstock and any other affiliated party(s) as additional insured. Should the policy contain an insured vs. insured exclusion, the exclusion must be amended to allow for claims against the named insured by the additional insured.

c. an endorsement to the effect that the policy or policies will not be altered, cancelled or allowed to lapse without thirty days written notice to the City of Woodstock.

d. Contractor’s Liability Insurance Policy shall not contain any exclusions of liability for damage, etc., to property, building or land arising from:

   i. the removal or weakening of support of any property, building or land whether such support be natural or otherwise.

   ii. the use of explosives for blasting, only when blasting is required under the contract.

   iii. the vibration from pile driving or caisson work, provided that the minimum coverage for any such loss or damage shall be $5,000,000.

e. Coverage for non-owned automobiles.

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 Dividing of contracts - purchases - prohibited

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

376.6.3 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.

376.6.4 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.

376.6.5 Accessibility features - consideration where possible
Procurement of products and services, which include accessibility features, wherever practicable, is encouraged. The City tries to assist persons with disabilities unless doing so would result in a fundamental alteration to the program or service or is not practical. As an example of a product which might be utilized – when installing or replacing door handles, use lever style handles.

376.6.6 Environmentally friendly purchasing practices
Procurement of recycled and other environmentally preferable products, whenever practical, is encouraged. The City is desirous of supporting markets for recycled and other environmentally preferable products. "Practical" means sufficient in performance and available at a reasonable price. The final determination of practicable shall lie with the users of the product, since it is the end user who understands performance and budgetary requirements. Evaluation should consider life-cycle and replacement costs.

376.6.7 Performance evaluation - suppliers – permitted
Performance evaluations may be undertaken on suppliers and providers of service.

376.6.8 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.

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

Article 7 - Repeal

376.7.1 By-law - previous
By-law 8040-04 is hereby repealed. By-law 8690-11, June 2, 2011.