



PROCUREMENT POLICY

Schedule A

to

By-law No. 2013-0011

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Part I: Procurement Policy Goals

- 1.1 To ensure openness, fairness, accountability and transparency while protecting the financial best interests of the County of Frontenac.
- 1.2 To set out guidelines for the County to ensure that all purchases of materials, supplies and services provide the lowest costs consistent with the required quality, service, product delivery, efficiency and effectiveness.
- 1.3 To 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 and by reviewing the policy every four years or earlier to evaluate its effectiveness.
- 1.4 To have regard to the accessibility of persons with disabilities in the procurement of Goods and/or Services purchased by the County of Frontenac.
- 1.5 To encourage the procurement of Goods and/or Services with due regard to the preservation of the natural environment, vendors may be selected to supply goods or provide services made by methods resulting in the least damage to the environment. Consideration may be given to energy efficiency, reduction in solid waste for disposal, reduction in chemical emissions, and incorporation of recycled materials where practicable. When feasible, and when stated in the tender documents, preference will be given to those purchases that reduce the life cycle costs.
- 1.6 To promote the use of innovation and the use of technology in procurement activities to ensure the utilization of the most efficient and effective processes and practices.
- 1.7 To monitor and report on the economic climate and legislative changes which may have an impact on the County of Frontenac and to determine the appropriate actions to be taken through purchasing policies and procedures.

Part II: Definitions

As used herein the following definitions shall apply unless otherwise indicated:

“AOPPOQ” is the Agreement on the Opening of Public Procurement for Ontario and Quebec;

“Authorized” in relation to a Person, means authorized by this Policy to act on behalf of the County to: (i) initiate Bid Requests and other forms of Procurement activities; (ii) govern the conduct of a Bid Request; and (iii) make an Award;

“Authorized Person” means a Person who is Authorized and includes any Designates. Authorized Persons are specified in Appendix B;

“Award” means the approval given by the Authorized Person to enter into a Contract;

“Bid” means a tender, quotation, proposal or other form of submission from a prospective Vendor in response to a Bid Request;

“Bid Bond” means a written, valid, subsisting, binding and irrevocable undertaking by a surety company to pay to the County a specified amount in the event the successful bidder fails to enter into a Contract;

“Bid Documents” means the documents issued by the County in connection with a Bid Request;

“Bid Request” means a written request by the County for Bids in connection with the provision of Goods and or Services and includes, without limitation, Requests for Proposals, Requests for Tenders, Requests for Quotations and Calls for Tenders;

“Bidder or Tenderer” means a Person that submits a Bid;

“CAO” the Chief Administrative Officer of the County;

“Construction” when used to describe a class of Procurement means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional services related to the construction contract unless they are included in the procurement;

“Contract” means the acceptance by the County of a Bid in the form of a duly signed agreement or Purchase Order between a chosen Bidder and the County for the provision of Goods and or Services;

“Council” means the Council of the County;

“County” means the Corporation of the County of Frontenac;

“Department” means an organizational business or service unit of the County to which Council has allocated a budget;

“Department Head” means the County staff person responsible for the directional and operational control of a Department, including, without limitation, the Department’s budget;

“Designate” means a Person to whom authority to conduct Procurement activities has been delegated by the Authorized Person be approved by the CAO;

“Electronic Tendering System” means a world wide web or Internet based system (such as MERX) that is used by purchasers of Goods and or services to submit Bid Requests;

“Emergency” means an urgent situation involving a real or perceived threat to public health, safety or security and includes threats to financial and property interests, or that presents a risk of negative cost impacts to the County;

“Goods and Services” means all supplies, equipment, materials, services (including without limitation, insurance, professional consulting services, and Construction contracts) to be supplied or furnished by a Vendor and all components thereof;

“In-house bidding” means a process that permits Departments to respond to Bid Requests in competition with external Bidders;

“Irregularity” in reference to the contents of a Bid means a departure from the strict requirements of a Bid Request as reflected by the Bid Documents;

“MASH Annex” means Annex 502.4 to the *Federal Agreement on Internal Trade*, where in which the MASH refers to municipalities, municipal organizations, school boards and publicly-funded academic, health and social service entities;

“No Cost Procurement” means a procurement of Goods and Services or Construction where the County shall not bear any expense or capital expenditure cost;

“Pecuniary Interest” means a pecuniary interest, whether deemed, direct or indirect, within the meaning of the *Municipal Conflict of Interest Act*, R.S.O. 1990,

Chap. M. 50 (the "MCIA") and specifically excludes any of the exceptions noted under section 4 of the MCIA;

"Person" includes individuals, corporations, partnerships, firms and trusts and may include Council;

"Policy" means this procurement policy;

"Pre-qualification" means the process of selecting a number of prospective Vendors who are determined by Council to be experienced in the provision of a specific type of Goods and/or Services;

"Purchase / Procure" means the acquisition of Goods and/or Services by or on behalf of the County by way of purchase, lease, or rental;

"Purchase Order" means a written offer from the County to Purchase Goods and or Services in the form prescribed by Council;

"Request for Expressions of Interest" – a general market research tool to determine vendor interest in a proposed procurement, used prior to issuing a call for bids or proposals and not intended to result in the award of a contract;

"Single Sourcing" means the process of procuring Goods and or Services from a particular Vendor without the utilization of a Bid Request issued to other potential Vendors;

"Total Acquisition Cost" means the County's estimate of the amount of a particular Contract plus applicable taxes and less any applicable rebates; and

"Vendor" means any Person supplying Goods and or Services to the County in accordance with the terms of a Contract.

Part III: General Provisions

Application of Policy

- 3.1 The provisions of this Policy shall be followed by all Persons who act on behalf of the County in: (i) the issuance of a Bid Request; (ii) the conduct of a Bid Request; and (iii) the making of an Award.
- 3.2 Save and except for the provisions of Part VIII, which provisions apply to all Purchases on behalf of the County, the Purchase of Goods and/or Services listed in Appendix A attached to this Policy are exempt from the provisions of this Policy.
- 3.3 The terms of this Policy are applicable to the County *mutatis mutandis*. Any Person carrying on activities on and from County property must refer to the appropriate Department Head all proposals for Purchases of any Goods or Services that will be used by such Person on County property and will thereafter become the property of the County.

Compliance with Legislation and Trade Agreements

- 3.4 All Procurement activities on behalf of the County shall be undertaken in compliance with Section 13 of the *Ontarians with Disabilities Act, 2001*, S.O. 2001, Chap. 32, the *Accessibility for Ontarians with Disabilities Act, 2005*, and all related regulations requiring regard to accessibility for persons with disabilities to the Goods or Services.
- 3.5 The provisions of the MASH Annex and the AOPPOQ are incorporated by reference into this Policy, and shall form a part hereof. In the event of a conflict or inconsistency between any provision of this Policy and a provision of the MASH Annex or the AOPPOQ, the provision of the latter referenced trade agreements shall prevail.

Restrictions

- 3.6 No Person shall approve or initiate the Purchase of Goods and or Services except in accordance with the terms and conditions set out in this Policy.
- 3.7 No Person shall divide any Contract or Bid Request into two or more parts with the intent of avoiding the application of the provisions of this Policy.
- 3.8 Unless otherwise provided, no Purchase shall be made unless approved by a Person Authorized to do so in accordance with the provisions of Appendix B (Procurement Authorizations) attached to this Policy.

- 3.9 Any lease financing must be undertaken in accordance with the County's Lease Financing By-law.

Conflict of Interest

- 3.10 Where a Person with the ability to influence or otherwise affect the outcome of a decision to Award a Contract or to select a Bidder, either on his or her own behalf, or while acting for, by, with or through another Person, has any Pecuniary Interest in the subject matter of such Contract or Bid Request, that Person:
- (i) shall immediately disclose the fact of the Pecuniary Interest to the Authorized Person and shall describe the general nature thereof, provided that:
 - (a) in the case where a Department Head is the Authorized Person and such Department Head has a Pecuniary Interest, the Department Head will disclose his or her Pecuniary Interest to the CAO who shall then make such directions and take such steps as are necessary to ensure that the provisions of this Policy are adhered to; and
 - (b) in the case where the CAO is the Authorized Person and also has a Pecuniary Interest, the CAO shall disclose his or her Pecuniary Interest to Council which shall then make such directions and take such steps as are necessary to ensure that the provisions of this Policy are adhered to;
 - (ii) shall not take part in any deliberations regarding the Award of the Contract including any vote in relation thereto; and
 - (iii) shall not attempt in any way to influence the Award of the Contract.

Authorized Persons

- 3.11 The Persons to whom authority is granted to carry on Procurement activities as Authorized Persons are identified in Appendix B (Procurement Authorizations) attached to this Policy. Unless otherwise provided in this Policy, Authorized Persons shall have full authority and responsibility for the conduct of the Bid Request (including without limitation, the preparation, issuance and advertising of Bid Documents) and the Award of a Contract.
- 3.12 Unless otherwise provided in this Policy, Authorized Persons may appoint Designates to assist with or carry out the responsibilities of the Authorized Person, in which case, such Designates shall be deemed to be Authorized

Persons for the purposes of this Policy to the extent of the authority that has been delegated to them. Authorized Persons must be approved by the CAO.

- 3.13 Where Council is the Authorized Person, any documents that are to be executed by the Authorized Person shall be signed by the Warden and CAO of the County.

Prescribed Council Approval

3.14 The following matters are subject to Council approval:

- (i) Any proposed Bid Request in connection with a procurement having a Total Acquisition Cost in excess of \$50,000 which has not specifically been authorized through the budget process.
- (ii) Any proposed Bid Request in connection with a procurement where the Total Acquisition cost, or in the case of proposed multiple Bid Requests with respect to a particular project or program, the sum of the respective proposed Total Acquisition Costs and other related expenses, is greater than the Council approved budget for such project or program;
- (iii) The Award of a proposed Contract where an Irregularity precludes the Award of a Contract to the Bidder that otherwise would likely have been selected;
- (iv) The Award of a Proposed Contract or the making of a proposed Bid Request in respect of the procurement of a Good and/or Service that is known to be available from only one source of supply or the making of a proposed Bid Request where the Bid Request is to be restricted to a single source of supply because standardization or compatibility of supply is determined by the Authorized Person as being the overriding consideration in the selection of a Bid and where the Total Acquisition Cost of such Good and/or Service exceeds \$25,000.
- (v) Any proposed cooperative procurement in which the policies of the agency or public authorities calling the cooperative Bid Solicitation are not consistent with this Policy; and
- (vi) The Approval of a Contract in the case where a Contract is required in accordance with the County's Lease Financing By-law.

Part IV: Preparing for a Bid Request

Bid Documentation

- 4.1 All documents related to Procurement activities, including without limitation, all Bid Requests and Bid Documents, shall be reviewed by the County's Treasurer before release to prospective Bidders to ensure:
- (i) compliance with this Policy;
 - (ii) internal consistency between any Bid Documents that are proposed to be issued and those that have been issued by the County in the past; and
 - (iii) that any substantive amendments to standard clauses have been approved by the County's legal counsel.
- 4.2 The Authorized Person may seek out the expertise of external engineers, lawyers, architects, planners and other qualified professional consultants for assistance in the design of Bid procedures and in the preparation of Bid Requests and Bid Documents./ external consultants
- 4.3 The Bid Documents issued in connection with every competitive Bid Request shall contain:
- (i) a privilege clause advising Bidders that the lowest or any Bid may not necessarily be accepted; and
 - (ii) a provision reserving the right of the County to cancel the Bid Request at any time up to the Award of a Contract.
- 4.4 The Authorized Person shall ensure that all terms and criteria, apart from price, that are to be relied upon in awarding a Contract be fully disclosed in the Bid Documents.

Advertisement of Bid Requests

- 4.5 Bid Requests in respect of Procurements having a Total Acquisition Cost in excess of \$10,000 shall be advertised on an Electronic Bulletin Board.
- 4.6 The Authorized Person shall ensure that the provisions of the MASH Annex and the AOPPOQ are adhered to especially where the Total Acquisition Cost of a proposed Bid Request trigger the following thresholds:

- Goods and/or Services procurement with a Total Acquisition Cost of \$100,000 or more (both the MASH Annex and the AOPPOQ apply)
 - Construction procurement with a Total Acquisition Cost of \$100,000 or more (the AOPPOQ applies)
 - Construction procurement with an estimated value of \$250,000 or more (both MASH Annex and AOPPOQ apply)
- 4.7 In addition to the minimum standards set out in this Policy, Bid Request advertisements may be supplemented by other means of notification where deemed appropriate by the Authorized Person in keeping with the stated goals and objectives of this Policy as set out in Part I.
- 4.8 The minimum advertisement period for Bid Requests shall be seven (7) days from the posting of the Bid Request.

Bonds and Security

- 4.9 The provisions of Appendix E apply to this Section.
- 4.10 The Authorized Person in consultation with the Treasurer may require that a Bid be accompanied by a Bid Bond or other similar security.

Unless otherwise specified, in circumstances where a Bid Bond or other security is required, the refundable deposit requirements for Requests for Tenders and Requests for Proposals shall be as follows, with the exception that those projects using the Ontario Provincial Standard Specifications based tender documents the value of the Bid Bond required will be consistent with Ontario Provincial Standard Specifications guidelines (see Appendix E):

Total Acquisition Cost	Minimum Deposit Required
\$20,000.00 or less	\$500 (requirement at discretion of Authorized Person)
\$20,000.01 to \$100,000.00	5% of the Bid
>\$100,000.01	10% of the Bid

- 4.11 The Authorized Person shall select the appropriate means to guarantee execution and performance of the Contract. Means may include one or more of, but are not limited to, certified cheque, bank draft, irrevocable letter of credit, money order and where appropriate, a Bid Bond issued by an approved guarantee company properly licensed in the province of Ontario, on bond forms acceptable to the Treasurer.
- 4.12 Prior to the commencement of the supply of Goods and or Services in connection with a Contract, all Vendors shall provide:

- (i) in respect of Contracts where the Bid is in excess of \$50,000, all Construction and other service Contracts, and in other Contracts at the sole discretion of the Authorized Person, the following security in addition to the security referred to in subsection 4.11:
 - (a) a performance bond to guarantee the performance of a Contract; and
 - (b) a labour and material Bond to guarantee the payment for labour and materials to be supplied in connection with a Contract;
- (ii) evidence of insurance coverage satisfactory to the Treasurer (at no less than the minimum levels set out in Appendix E) ensuring indemnification of the County from any and all claims, demands, losses, costs or damages resulting from the performance of the Vendor's obligations under the Contract and from any other risk determined by the Treasurer as requiring coverage;
- (iii) a Certificate of Clearance from the Workplace Safety and Insurance Board ensuring all premiums or levies have been paid by the Vendor to the Workplace Safety and Insurance Board to the date of payment for all contracts with a labour component (no dollar threshold);
- (iv) an acknowledgement by the Vendor of its obligations under the *Occupational Health and Safety Act*, and the County's safety policy satisfactory to the Authorized Person in his or her sole discretion;
- (v) an acknowledgement by the Vendor of its obligations under the *Accessibility for Ontarians with Disabilities Act, 2005*, and its regulations and evidence of compliance satisfactory to the Authorized Person in his or her sole discretion;
- (vi) where the Contract contemplates work within the traveled portion of a roadway, an acknowledgement of its understanding of the Ontario traffic Manual and agreement to abide by that manual prior to performing any work within the roadway; and
- (vii) evidence of compliance with any other legislation by which the trade or activity is governed is to be provided.

Part V: Purchasing Methods

5.1 Appendix C applies to this section.

Informal Low Value Procurement: Purchases Up to \$5,000 Inclusive

5.2 At the discretion of the Authorized Person, a documented solicitation of 3 quotations may be undertaken for purchases up to \$5,000 inclusive.

Informal Request for Quotation: Purchases Between \$5,000.01 and \$10,000 Inclusive

5.3 A documented solicitation of 3 quotations must be undertaken for Purchases having a Total Acquisition Cost of between \$5,000.01 and \$10,000.

Request for Quotation: Purchases Between \$10,000.01 and \$25,000 Inclusive

5.4 Subject to Section 5.9, a Request for Quotation shall be issued for Purchases having a Total Acquisition Cost of between \$10,000.01 and \$25,000 where the Vendor is not a single source vendor.

Request for Tender: Purchases Exceeding \$25,000.00

5.5 Subject to Section 5.9, a Request for Tender shall be used for any purchases of goods and/or Services having a Total Acquisition Cost exceeding \$25,000.

5.6 The Authorized Person shall follow the provisions of Part VIII regarding the form of Contract required to complete the Purchase.

Request for Proposal

5.7 For Purchases having a Total Acquisition Cost exceeding \$10,000, a Request for Proposal shall be used in place of a Request for Tender or a Request for Quotation in circumstances where, in the opinion of the Authorized Person:

- (i) Owing to the nature of the project: (i) the project requirements are not capable of being specifically delineated; (ii) Bidders are invited to propose a solution to a problem, requirement or objective; and (iii) the selection of a Vendor is to be based on the effectiveness of the proposed solution rather than on price alone; or

(ii) It is expected that negotiations with one or more Bidders may be required with respect to any aspect of the requirement.

- 5.8 Bids in response to a Request for Proposal shall be evaluated in accordance with the value-based selection methodology set out in the "Consultant Selection Guidelines (1999)" issued by the Consulting Engineers of Ontario (www.ceo.on.ca). Appendix F attached to this Policy contains a sample of an evaluation grid.
- 5.9 The Finance Department shall maintain a list of suggested evaluation criteria for assistance in preparing an Evaluation Grid, which criteria may include factors such as approach, equipment and facilities, experience and qualifications, methodology, past performance and scheduling, price and strategy.
- 5.10 The Authorized Person may Award a Contract emanating from Bids in response to a Request for Proposal provided that:
- (i) The Award is made to the Bidder meeting all mandatory requirements and determined, by reference to an Evaluation Grid, as providing best value;
 - (ii) Sufficient funds are available and identified in appropriate accounts within Council Approved Budgets; and
 - (iii) The provisions of this Policy are complied with.
- 5.11 The Authorized Person shall follow the provisions of Part VIII regarding the form of Contract required to complete the purchase.

Non-Competitive Procurements: Suppliers of Specialized goods and/or Services

- 5.12 Annually, during budget deliberations, all Department Heads shall submit, for the approval of Council, a report setting out:
- (i) a list of those prospective Vendors, if any, identified to be used in Single Sourcing Procurements of specialized Goods and/or Services which must be recorded on the Vendor of Record list;
 - (ii) the Total Acquisition Costs involved in any such Contracts; and
 - (iii) the rationale for Single Sourcing in the specific circumstances of such Contracts.
- 5.13 Authorized Persons may Award Contracts on a Single Source, non-competitive basis to suppliers of specialized goods and/or services who

are on the Vendor of Record list. The Award of the Contract will be documented by the issuance of a blanket purchase order to recognize the standing agreement.

Non-competitive contracting may be justified under the following set of criteria which includes, but is not limited to:

- when there is a statutory- or market-based monopoly on the item
- when no bids were received in a competitive process
- when the required item is covered by an exclusive right such as a patent, copyright or exclusive licence
- when the purchase is already covered by a lease-purchase agreement where payments are partially or totally credited to the purchase
- when it is necessary to ensure compatibility with existing products or to avoid violating warranty/guarantee requirements when service is required
- when the required item is in short supply due to market conditions
- when competitive sourcing for low value procurement would be uneconomical or would not attract bids
- 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
- when an urgent procurement is necessary for fulfilling a statutory order issued by a federal or provincial authority, such as an environmental, public health, or workplace safety compliance order
- when specialized experience, knowledge or expertise is required
- when by legislation or regulation, the service can be provided only by the following licensed professionals: medical doctors, dentists, nurses, pharmacists, veterinarians, engineers, land surveyors, architects, chartered accountants, lawyers and notaries

Vendors of Record (VOR)

5.14 Authorized Person(s) may select the VOR process of procurement if the Vendors are included on a Vendor of Record list. Generally, there shall be a documented detailed working relationship with the Vendor who will be providing the Goods or Services needed by the County without the County absorbing the administrative costs of seeking several quotes. The VOR process may be used either directly to Procure Goods and or Services (i.e. without further competition) or it may be used as the basis for a Bid Request.

Every three years vendors will be provided with the opportunity to be included on the Vendor of Record list through an open solicitation of expressions of interest. Current Vendors and new submissions will be

reviewed using the standard evaluation process available for the specific good or service to which the vendor relates..

A vendor who is the successful bidder in a competitive process for the County and who provides the contracted service consistent with the requirements of the contract in a manner satisfactory to the Authorized Person will be added to the Vendor of Record list.

The VOR list shall be reviewed at least once per fiscal year by County Council during budget deliberations to ensure the County continues to receive Goods and Services at the best possible value. However, any VOR vendor can be removed from the list at any time on recommendation to Council by the Authorized person.

In-House Bids

5.15 In-House Bids would not normally be accepted in the Procurement of Goods and/or Services but may be considered in circumstances where County departments can offer the goods or service at a competitive rate and the CAO considers it appropriate to do so. An evaluation of the In-House Bid would be undertaken under the same criteria as that required for external vendors.

Emergency Purchases

5.16 Where, in the opinion of the Authorized Person, an Emergency exists requiring the immediate procurement of Goods and/or Services, he or she may authorize the Purchase of the required Goods and/or Services by the most expedient and economical means subject to the following:

- (i) any Authorized Person may authorize Emergency Purchases having Total Acquisition Costs of \$5,000 or less;
- (ii) for Emergency Purchases having a Total Acquisition Cost greater than \$5,000 and less than \$50,000, Department Heads who are Authorized Persons require the written approval of the CAO to authorize the Emergency Purchase; and
- (iii) for Emergency Purchases having a Total Acquisition Cost greater than \$50,000, only the County Warden may authorize such a Purchase.

Cooperative Purchasing

5.17 The County may participate with other government agencies or public authorities in cooperative purchasing where, in the view of County Council

it is in the best interest of the County to do so and where the purposes, goals and objectives of this Policy are complied with by such government agencies and public authorities.

- 5.18 Notwithstanding section 5.20, where the he policies of the government agencies or public authorities calling the cooperative Bid Solicitation are not consistent with the County's, the CAO will document the policy differences and present the rationale for continuing with the cooperative procurement. The CAO may recommend the cooperative procurement to County Council for approval. The CAO will document the policy differences and present the rationale for continuing with the cooperative procurement.

No Cost Procurement

- 5.19 No Cost Purchasing shall be acquired in the same manner and using the same Purchasing methods and Authorized Persons as procurements that have a cost to the County, depending on the estimated value of the No Cost Purchase.

Corporate credit/purchase card

- 5.20 Corporate credit/purchase cards may be used by an authorized cardholder to purchase any eligible good or service where the total purchase price, including all applicable taxes, is within the cardholder's authorized monthly maximum.

All use of corporate credit cards must be in accordance with current procedures defined by the Treasurer and supported by valid authorized source documents. All such source documents must be approved by the Department Head in accordance with Appendix B.

Part VI: Opening and Evaluating Bids

Opening Bids

- 6.1 All Bids, where the estimated Total Acquisition Cost exceeds \$25,000, shall be received at the County office where they shall be opened with at least the CAO or designate and the Treasurer or designate present. If the Authorized Person is County Council, the Warden or designate shall also be present.
- 6.2 Bids received later than the specified closing time will be returned unopened to the Bidder.
- 6.3 Bidders may withdraw their bids at any time up to the official closing time specified in the Bid Documents in the manner specified therein.
- 6.4 Bid requests with estimated Total Acquisition Cost exceeding \$10,000 will be opened in public.

Preference to Local Suppliers

- 6.5 Subject to the provisions of the MASH Annex, the AOPPOQ and all other applicable law, and all else being equal, local Bidders may be given preference in the selection of a Vendor.

Rejection of Bids in Reliance on Privilege Clause

- 6.5 In the event that the Authorized Person is relying on the so-called privilege clause as the basis for the rejection of a particular Bid, the Authorized Person must document the specific reasons for such rejection and the reasons so stated must be consistent with considerations contained within the Bid Documents.

Only Compliant Bids to be Considered

- 6.7 Subject to Section 7.7, in evaluating Bids, the Authorized Person shall not consider any Bids that are not in compliance with the terms and conditions set out in the Bid Documents.

Duty of Fairness to Bidders

- 6.8 The Authorized Person:
 - (i) shall not permit a Bidder to alter or amend his Bid once the time for Bid submissions tenders has closed;

- (ii) shall act fairly, bargain in good faith, and not give any Bidder an unfair advantage over other Bidders; and
- (iii) shall not conduct bid shopping or procedures akin to bid shopping.

Part VII: Problems Encountered in the Administration of Procurement Procedures

Where Strict Adherence to Policy Unmanageable

- 7.1 If, in the context of either the approval to issue a Bid Request, the actual conduct of a Bid Request, or the determination of whether the County shall enter into a Contract and with whom, circumstances arise that, in the view of the Authorized Person, would make strict adherence to the provisions of this Policy difficult, impractical, unmanageable or would otherwise run counter to the stated goals of this policy or not be in the best interests of the County, the Authorized Person shall:
- (i) where the Authorized Person is a Department Head, advise both the CAO and Treasurer of the County who shall together have joint authority to determine the appropriate action;
 - (ii) where the Authorized Person is the CAO, advise Council which shall have the authority to determine the appropriate action; and
 - (iii) notify Council immediately or at the earliest possible opportunity.

Unresponsive or Excessive Bids

- 7.2 Where Bids are received in response to a Bid Request, but all are in excess of project estimates or are non-compliant with or unresponsive to the Bid Documents then:
- (i) The Authorized Person may issue a revised Bid Request; or
 - (ii) The Authorized Person, Department Head, Treasurer and CAO, jointly may enter negotiations with the lowest compliant Bidder to achieve an acceptable Bid within the project estimate.

Identical Bids

- 7.3 If the Lowest Compliant Bids from two or more Bidders are identical in total cost or unit price, as the case may be, the Authorized Person, in conjunction with the Treasurer and CAO, may enter into negotiations with the Bidders who have submitted the identical price in an attempt to obtain a lesser price and shall maintain a record in respect of such negotiations.
- 7.4 The Authorized Person, CAO, or Treasurer shall not reveal information pertaining to such negotiations or the manner in which the final price was determined to any of the Bidders concerned. The Authorized Person shall

include as part of the record, a report concerning the results of such negotiations.

- 7.5 If the Lowest Compliant Bids from two or more bidders are identical in total cost or unit price, as the case may be, and negotiations for the purposes of obtaining a lower price have not been successful, the Authorized Person may break the tie in a manner consistent with the provisions of the Bid Documents. In this regard, the Authorized Person shall not utilize any arbitrary means in order to break a tie, but may have regard to certain factors provided such factors are specifically identified in the Bid Documents as being available for consideration in the event of identical Bids.

Where Only One Bid Received

- 7.6 In the case where only one Bid is received in response to a Bid Request, the Authorized Person shall advise the lone Bidder of the fact that only one Bid was received and shall attempt to negotiate the rules under which the Bid might be opened, failing which, the County shall offer to return the Bid unopened.

Bid Irregularities

- 7.7 The procedure for administering Irregularities shall be as set out in Appendix D. The Authorized Person is directed to respond to an Irregularity in the manner specified in the third column.

Part VIII: Form of Contract

- 8.1 The Award of a Contract over \$100 may be made by way of a Purchase Order.
- 8.2 A formal agreement shall be used instead of a Purchase Order if the Authorized Person and Treasurer determine that the resulting Contract will be complex and will contain terms and conditions other than standard contractual terms and conditions.
- 8.3 Where it is deemed that a formal agreement is required, the formal agreement shall be reviewed by the Treasurer and Legal Counsel as required.
- 8.4 Where a formal agreement is required, the agreement shall be executed by the Authorized Person.
- 8.5 Where a Contract includes work performed by the Vendor on County of Frontenac property, no letter of intent shall be issued until the Vendor has provided proof of required insurance and proof of compliance with WSIB, the *Accessibility for Ontarians with Disabilities Act, 2005*, and the *Occupational Health and Safety Act, 1990* and all applicable regulations.

Part IX: Other

Access to Information

- 9.1 The disclosure of information received relevant to the issue of Bid Requests or the Award of Contracts emanating from Bid Requests shall be in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M56, as amended.

Accessibility

- 9.2 The County of Frontenac will incorporate accessibility criteria and features into its procurement of Goods and Services and facilities. Where it is impractical for the County to incorporate accessibility criteria and features when procuring or acquiring specific Goods and Services and facilities, the Treasurer will provide a written explanation, upon request. Bid Documents shall, upon request, be made available in an accessible format to persons with a disability at no additional charge.
- 9.3 The Vendor, and all sub-contractors hired by the Vendor in the completion of its work, will meet or exceed compliance with all applicable regulations under the *Accessibility for Ontarians with Disabilities Act, 2005*, as may be amended from time to time. It is the responsibility of the Vendor to ensure that they are fully aware of, and meet all requirements under the Act and all applicable regulations.

Policy Review

- 9.4 The Treasurer will randomly review Departmental purchasing on an ongoing basis to assess the effectiveness and efficiency of the procedures and to ensure that this Policy has been consistently applied.
- 9.5 This Policy shall be reviewed prior to the end of each Council term and any amendment thereto shall be made prior to the inaugural meeting of the next Council.

This is Schedule A to By-law No. 2013-0011 passed by the Council of the County of Frontenac this 20th day of March, 2013.

Janet Gutowski, Warden

K. Elizabeth Savill, Clerk

APPENDIX A

Goods and Services “Exempt” from Provisions of the Procurement Policy

1. Petty Cash Items
2. Training and Education
 - a) Conferences
 - b) Courses
 - c) Conventions
 - d) Memberships
 - e) Seminars
 - f) Periodicals
 - g) Magazines
 - h) Staff training
 - i) Staff development
 - j) Staff workshops
 - k) Subscriptions
3. Employee Expenses
 - a) Advances
 - b) Meal Allowances
 - c) Travel & Hotel accommodation
 - d) Entertainment
 - e) Miscellaneous – Non-Travel
4. Employer’s General Expenses
 - a) Payroll deduction remittances
 - b) Licenses (vehicles, elevators, radios, etc)
 - c) Debenture payments
 - d) Grants to agencies
 - e) Payments of damages
 - f) Tax remittances
 - g) Charges to/from other Government or Crown Corporations
 - h) Employee income
 - i) Petty cash replenishment
5. Professional and Special Services
 - a) Committee fees
 - b) Witness fees
 - c) Court Reporters’ fees
 - d) Honoraria
 - e) Arbitrators
 - f) Mediators
 - g) Legal settlements
 - h) Contracts related to the provision of “controlled acts” by persons “governed by a health profession Act” as those expressions are used in the Regulated Health Professions Act, S.S. 1991, c18 as amended
6. Utilities
 - a) Postage
 - b) Water and sewer charges
 - c) Hydro
 - d) Cable television charges
 - e) Telephone

- f) Natural Gas
- 7. Advertising services required by the County on or in but not limited to radio, television, newspaper and magazines
- 8. Bailiff or collection agencies

APPENDIX B

Procurement Authorizations

The following table shall determine the identity of the Authorized Person in respect of a proposed Bid Request.

Total Acquisition Cost	Authorized Person
Up to \$20,000 inclusive if in the approved budget	Department Heads
Greater than \$20,000.00 if in the approved budget.	CAO
Greater than \$50,000 if not in the approved budget or any project not in the approved budget	Council

APPENDIX C

Purchasing Process, Circumstances for Use and Goals

Process	Dollar Threshold	Circumstances for Use	Goals
Informal Low Value Procurement	Up to \$5,000.	At the discretion of the Authorized Person.	
Informal Request for Quotation	Between \$5,000.01 and \$10,000 inclusive.	When timely purchasing is critical. When the formal process is not cost beneficial.	To obtain competitive pricing for procurement in an expeditious and cost effective manner through phone, fax, e-mail, other similar communication method vendor advertisement or vendor catalogues.
Request for Quotation	Between \$10,000.01 and \$25,000 inclusive.	When the process requires seeking out quotes without commitment to a contract. However the magnitude of the project requires a more formal process.	Same as for Request for Tender except that bid solicitation is done primarily on an invitational basis from a pre-determined bidders list but may be supplemented with public advertising of the procurement opportunity.
Request for Tender	Over \$25,000.01	Requirements clearly defined.	To implement an effective, objective, fair, open, transparent and accountable and efficient process for obtaining competitive bids based on precisely defined requirements for which a clear or single solution exists.
Request for Proposal	Over \$10,000.01.	Project requirements not specifically delineated	To 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.
Non-Competitive or Single Source		<ul style="list-style-type: none"> • Statutory or market-based monopoly. • No bids received in competitive process. • Item covered by exclusive right such as patent, copyright or exclusive licence. • Item covered by a lease-purchase agreement where payments are partially or totally credited to the purchase. • Where it is necessary to 	<p>To allow for procurement in an efficient and timely manner without seeking competitive pricing.</p> <p>To provide for exceptions to the procurement requirements of interprovincial trade agreements.</p>

		<p>ensure compatibility with existing products or to avoid violating warranty/guarantee requirements.</p> <ul style="list-style-type: none"> • When item is in short supply due to market conditions. • When competitive sourcing would be uneconomical. • Emergency situations. • Exempted goods, services as outlined in Appendix A. • Vendor is the only supplier of goods and or services. • Previously identified as a specialized service or product. 	
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APPENDIX D

Administering Irregularities in Bid Opening

	Irregularity	Response
1	Late Bids	Automatic rejection and not opened or read publicly
2	Where a sealed bid is required in the bid documents and the document is not sealed	Automatic rejection
3	Bids written in pencil rather than typewriter or completed legibly in ink	Automatic rejection
4	Bids received on tender documents other than those provided by the County	Automatic rejection
5	Corporate Seal or Authorized Signatory signature missing	Automatic rejection
6	Failure to provide bid securities as required by tender document	Automatic rejection
7	Documents in which addenda with financial implications have not been acknowledged	Automatic rejection
8	Bid requirements not completely met	Rejection depends on significance of bid requirements oversight
9	Restricted or qualified bids	Rejection depends on significance of bid restriction or qualification
10	Bids containing clerical and/or arithmetical errors	An acknowledgement and correction by fax within 1 hour of notification, to be followed in letter form within 24 hours to correct and initial errors
11	Overwrites, strikethroughs, or erasures of bidder's entries are not initialed	24 hours to initial from time of notification
12	All other irregularities	Depending on the significance of the irregularity, at the discretion of the Department Head, in consultation with the CAO or Treasurer, the bid envelope will either be automatically rejected, 24 hours will be given to correct and initial, or the bid may be accepted with the irregularities. Where the Authorized Person is the CAO, the CAO shall seek the direction of Council. In any case of questionable direction, the Authorized Person may seek the opinion of the County's legal counsel.

APPENDIX E

Risk Management

SECURITY DEPOSITS

Each bidder must submit a security deposit with his bid, if requested to do so. Deposit ensures that a successful bidder will enter into a formal agreement with the County upon acceptance of the bid. If for some reason the successful bidder does not enter into a Contract, his security deposit is forfeited to the County. Security deposits help to ensure that only serious bids are received for tender call.

Security deposits must be in the form of a certified cheque of appropriate bid bond made out to the order of the County.

After the Contract has been executed, the County will return the deposits of all unsuccessful bidders.

For those projects using the Ontario Provincial Standard Specification based tender documents the value of the Bid Bond will be consistent with the Ontario Provincial Standard Specification.

PERFORMANCE BONDS & LABOUR AND MATERIAL BONDS

Whenever a tender is let for construction or service supply, the County requires a Performance Bond and a Labour and Material Bond, guaranteed by a surety company of good standing. These bonds protect the County from a successful bidder who does not complete the work required in the formal contract. Where this occurs, the surety company may be required to pay the County an amount up to the bond limit. The bond must be taken for 100% of the contract fee and be included as part of the bid itself. Otherwise the County will not consider the bid.

Insurance requirements may be modified at the request of the Authorized Person. A written rationale for the modification shall be provided by the Authorized Person to the Treasurer for approval prior to the release of the Bid Documents. The Treasurer shall provide a written explanation for approving the modification of insurance requirements.

INSURANCE

The standard insurance minimums are as follows:

- \$2 million – general liability policy
- \$2 million - automobile liability policy
- \$2 million – homeowners (e.g. for rental of facilities)
- \$5 million – general liability and automobile liability policies – for contract work done for most Public Works and Environmental Services Department projects which have specific high risk activities such as shoring or blasting
- \$2 million – professional errors and omissions liability
- Builder’s Risk – the amount of the project cost where new construction abuts existing structures

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

The successful bidder must furnish the County at his/her cost a “certified copy” of a liability insurance policy covering public liability and property damage for no less than the minimum amounts stated above in the tender documents to the satisfaction of the County and in force for the entire contract period. The policy must contain:

- a. a “Cross Liability” clause or endorsement;
- b. an endorsement certifying that The Corporation of County of Frontenac and the successful bidder are included as an additional named insured;

- c. an endorsement to the effect that the policy or policies will not be altered, cancelled or allowed to lapse without thirty days prior written notice to the County.
- d. Contractor's Liability Insurance Policy shall not contain any exclusions of liability for damage, etc. to property, building or land arising from:
 - the removal or weakening of support of any property, building or land whether such support be natural or otherwise;
 - the use of explosives for blasting;
 - the vibration from pile driving or caisson work, provided that the minimum coverage for any such loss or damage shall be \$5,000,000.00

APPENDIX F

CEO SELECTION

A Worked Example of Value Assessment

Four proposals for a detailed design project with prices as follows:

- A: \$615,000
- B: \$859,000
- C: \$906,000
- D: \$1,021,000

Proposal A was discarded as a rogue bid (more than 25% below average of the four proposals).

Marking of Quality and Price

Points will be awarded for each quality criteria on a stepped approach wherein the proposal judged best would receive 10 points and the others 8, 6, 4, and 2 points respectively according to how they best satisfy the particular criteria. Similarly, fees would also be rated on a stepped basis wherein the proponent with the lowest fee would be awarded 10 points, and the others 8, 6, 4, and 2 points respectively.

Decision

Even though Proposal C is a higher fee than Proposal B, the total points awarded to Proposal C was higher than Proposal B and therefore Proposal C should be awarded the project.

Weighting Criteria	%	Proposal B		Proposal C		Proposal D	
		Points 0-10	Points Weighted	Points 0-10	Points Weighted	Points 0-10	Points Weighted
Experience and Qualifications of the Project Team							
Project manager/engineer and senior designers	20	6	120	10	200	8	160
Technical support staff	6	8	48	6	36	10	60
Sub-Consultants	5	10	50	8	40	6	30
Management Qualifications							
Experience on similar projects	12	6	72	10	120	8	96
Availability of key staff	5	8	40	6	30	10	50
Stability and reputation of the firm	5	6	30	10	50	8	40
Multi-disciplinary/specialty capabilities	5	6	30	8	40	10	50
Quality assurance system	0	0	0	0	0	0	0
Local office	0	0	0	0	0	0	0
Insurance coverage	5	10	50	6	30	8	40
Project Implementation							
Approach and methodology	12	6	72	10	120	8	96
Schedule of key activities and resources	7	8	56	6	42	10	70
Project quality assurance program	8	10	80	8	64	6	48
Price	10	10	100	8	80	6	60
TOTAL MARKS 100%			748		852		800