

SCHEDULE 'A'

**PURCHASING POLICY
TOWN OF MILTON**

June 28, 2004

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1. **OBJECTIVES**

- a) **Open, Objective and Competitive Process** – to encourage open competitive bidding for the acquisition or disposal of all goods and services. Bids are solicited for purchases over \$10,000 and the lowest compliant bid is awarded the contract. All bids over \$10,000 will be posted on the Town web page www.milton.ca and advertised on the Ontario Public Buyers web page www.opba.ca.
- b) **Transparent** – The procurement process is undertaken based on a clear definition of the product or service required and a clear outline of the criteria used in the evaluation. With regards to quotations and tenders, the decision to choose the low bidder will be based solely on the requirements as documented, the bidder's document and the evaluation criteria. Total project costs will be considered, including, but not limited to training, maintenance, quality, warranty, payment terms, conversion costs and trade-in value. A list of suppliers bidding on contracts over \$10,000 is available on the Town web site. In addition, once the bids are closed a summary of quotation and tender prices over \$10,000 is available on the Town web site.
- c) **Fair** – The process will be fair, such that no action is undertaken by Town staff to allow any given bidder an unfair advantage or disadvantage. However, existing conditions may not be changed, as conversion costs to switch to another supplier must be taken into consideration.
- d) **Efficient** – Purchases may be grouped with other departments or with other agencies to minimize administrative costs and to maximize buying power through economies of scale.

2. **DEFINITIONS:**

In this Policy:

- a) "Authority" or "Authorized" means the legal right to conduct the tasks outlined in this policy as directed by Council and delegated through the Office of the Chief Administrative Officer to the Director, Corporate Services and Treasurer and subsequently to the Coordinator, Purchasing. Authorized purchases are those that have prior approval of Council either through resolution, delegated authority or an emergency purchase.
- b) "Best value" means the optimal balance of performance and cost. It may include a time horizon that reflects the overall life cycle of a given asset or service.
- c) "Bid" means any form of formal request for goods and/or services (i.e.: quotation, tender, proposal).

- d) "Bid Deposit" means currencies, certified cheques, or other form of negotiable instrument or bond surety issued by a surety company to ensure the successful bidder will enter into an agreement.
- e) "Bid Irregularity" means a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response (see Appendix A).
- f) "Blanket Order" means an agreement between the Corporation and a supplier under which the supplier agrees to sell a product or service to the Corporation for an agreed period of time, terms and conditions and at an agreed pricing arrangement.
- g) "CAO" means the Chief Administrative Officer of the Town.
- h) "Certificate of Clearance" from the Workplace Safety and Insurance Board means a certificate issued by an authorized official of the Workplace Safety and Insurance Board certifying that the Board waives its rights under subsection 9(3) of the Work Place Safety and Insurance Act, R.S.O. 1997, Chapter 16, Schedule A, Section 141.
- i) "Consultant" means a person or firm, who by virtue of a particular expertise, is hired by the Town to undertake a specific task or assignment.
- j) "Contract" means any formal legal agreement for supply of goods, services, equipment or construction.
- k) "Coordinator, Purchasing" means the Coordinator, Purchasing or designate and is hereby authorized to act as agent in all such matters pertaining hereto.
- l) The "Corporation" or "the Town" means the Corporation of the Town of Milton.
- m) "Council" means the Municipal Council of the Corporation of the Town of Milton.
- n) "Delegated Purchasing Report" is a report that summarizes the details of a bid call for the purposes of making an award. The report is an internal document that is signed by the CAO, Director of Corporate Services and Treasurer and the user Department Head.
- o) "Department" means any department within the Corporation.
- p) "Department Head" means the Head of any Town Department (i.e. Director, Corporate Services and Treasurer, Director, Planning and Development, Director of Community Services, Director, Engineering Services and/or Fire Chief or designate).

- q) “Designate” means a person authorized by the Department Head or by the Coordinator, Purchasing to act on his/her behalf, for the purposes of this policy.
- r) “Emergency” means an event that occurs, which in the opinion of the Department Head or designate, requires immediate repair or replacement of equipment, services, or facilities in order to maintain a required public service or to prevent danger to life, limb or property within the Town of Milton.
- s) “Goods and Services” means all supplies, materials or equipment and maintenance, professional and consulting services, revenue generating and/or bids that give special consideration. This may include installation, training, inspection, maintenance and repairs and related procurement services, but does not include land purchases, sales and property leases.
- t) “Insurance Documents” means certified documents issued by an insurance company licensed to operate by the Government of Canada or the Province of Ontario stating that the bidder is insured in accordance with the Town’s insurance requirements as contained in the bid documents.
- u) “Lease” means a financial arrangement whereby equipment or municipal capital facilities are provided to the Town by a third party in exchange for a series of payments.
- v) “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.
- w) “Purchasing Card” means a card that can be used by authorized employees of the Corporation to purchase goods and/or services.
- x) “Purchasing staff,” means the Purchasing Coordinator, Purchasing/Analyst/Administrator who are hereby authorized to act as agent in all such matters pertaining hereto.
- y) “Relationship” means a parent, spouse, child, sibling or in-law.
- z) “Requisition” means a written or electronically transmitted request on an approved form, which is sent to Purchasing to procure goods or services.
- aa) “Responsive and Responsible Vendor” means one who complies with the provisions of the bid, including specifications, contractual terms and conditions, and who can reasonably be expected to provide satisfactory performance on the proposed contract based on reputation, or references, or performance on previous contracts, and adequate financial and other resources.

3. **AUTHORITY:**

- a) This policy authorizes the Coordinator, Purchasing and the Purchasing Staff or designates to act as the legal Purchasing Agent for the Corporation of the Town of Milton.
- b) The signatures of the Coordinator, Purchasing and/or Purchasing Staff, are required on all Purchase Orders over \$10,000. The Director, Corporate Services and Treasurer (up to \$50,000) and The Mayor and Clerk (over \$50,000) shall be authorized to sign all contracts.
- c) The Coordinator, Purchasing shall monitor adherence to the provisions of this policy and the procedures adopted for its use. Failure to comply with the provisions of the policy and the procedures shall be reported to the Director of Corporate Services and Treasurer.
- d) The Coordinator, Purchasing shall be responsible for maintaining good supplier relations and for the conduct of all negotiations with suppliers, subject to the other provisions of this policy. The Coordinator, Purchasing shall be provided with assistance from the Departments prior to the outset of calling bids, in matters that require further expertise and may request Departments to undertake research into specific goods, services or suppliers.
- e) All inquiries regarding materials, prices, services, delivery, terms, conditions and adjustments, are to be conducted by or through the Corporate Services, Purchasing Division.

4. **PURCHASING GUIDELINES:**

- a) Except as otherwise stipulated, any purchase of goods, services or equipment shall be made on a competitive basis, in keeping with accepted public purchasing practices and in accordance with the applicable federal, provincial and municipal laws/agreements. The Town does not solicit in-house bids in competition with outside firms.
- b) Splitting of purchases to avoid any of the purchasing process outlined in this Policy is strictly prohibited. Such practices shall be reported to the Director, Corporate Services and Treasurer.
- c) Dollar amounts shown in this policy setting parameters for the purchasing process, except as otherwise stated, shall be the total cost including taxes and freight.
- d) The Coordinator, Purchasing shall establish purchase contracts to assist in the replenishment of stock items for Inventory and monitor the price of goods received against these contracts.

5. **PURCHASING PROCESSES**

Notwithstanding any other provisions of this Policy, the acquisition of the items listed in Section 20 do not fall under the guidelines of the Purchasing Policy and shall not be subject to applicable Policies and Procedures established.

- a) Where the requirement for goods or services can be specified and is estimated that the **total value is less than \$10,000**, including taxes and freight, and not included in any existing blanket order contract, the good/service shall be acquired by the either:
- The Purchasing Card (as per established limits) or
 - Purchase Order

No report to council is necessary. All Insurance and worker's compensation documentation is to be in place, as applicable

b) **REQUEST FOR QUOTATION.**

Where the requirement for goods or services can be specified and is estimated to **cost more than \$10,000, but less than \$50,000** including taxes and freight, the Coordinator, Purchasing in consultation with the initiating Department, shall issue a Request for Quotation. A Request for Quotation may be issued for lesser amounts if deemed beneficial by the Coordinator, Purchasing. The quotation will be advertised on the Internet through the Ontario Public Buyers Association web page (www.opba.ca) as well as the Town's web page (www.milton.ca). Advertising in a general publication will be at the discretion of the Coordinator, Purchasing. Quotations require a reply by a designated day and time. An Officer of the bidding company must sign the reply. Quotations will be opened in the presence of the Coordinator, Purchasing or designate and at least one other employee of the Town. A minimum of three bids shall be solicited. However, if only one bid is received, the Town may exercise the right to cancel. A purchase order shall be executed. No report to council is necessary. Quotations are not formally opened in public; however, the prices are available on the Town's web page.

c) **TENDERS:**

Where the requirement for goods or services can be specified and is estimated to cost **\$50,000 or more**, including taxes and freight, the Coordinator, Purchasing in consultation with the requisitioning Department shall issue a Request for Tender (RFT). The tender will be advertised on the Internet through the Ontario Public Buyers Association web page ([ww.opba.ca](http://www.opba.ca)) as well as the Town's web page (www.milton.ca). Advertising in a general publication will be at the discretion of the Coordinator, Purchasing. Tenders require a reply by a designated day and time. An Officer of the bidding company must sign the reply. Sealed Tenders will be opened in public in the presence of the Coordinator, Purchasing or designate and at least one other employee of the Town.

On contracts up to a value of \$500,000, if low bid is acceptable, within budget and/or Director, Corporate Services and Treasurer's signing authority, a purchase order/formal contract shall be executed upon approval of the Delegated Purchasing Report.

On Contracts over \$500,000 or bids that have any of the conditions outlined in Section 8 a report will be submitted to Council for Approval.

d) **PROPOSALS:**

A Request for Proposal shall be used where due to the nature of the requirement, bidders are invited to propose a solution to a problem, requirement or objective and the selection of the successful supplier is based on the effectiveness of the proposed solution rather than on price alone and/or negotiations may be necessary with respect to any aspect of the requirement. The effectiveness of the proposal is measured against a standard set of evaluation criteria, which may include but is not limited to: approach, experience and qualifications, methodology, past performance, scheduling, price and/or strategy.

Where it is estimated that the total cost of the goods or services, inclusive of delivery charges and tax will cost **more than \$10,000 but less than \$50,000** the Coordinator, Purchasing in consultation with the requisitioning Department shall issue a Request for Proposal.

Proposals require a reply by a designated day and time. An Officer of the bidding company must sign the reply. These proposals are not formally opened in public nor is it necessary to disclose price or terms at the time of closing. If only one proposal is received, the Town has the option of not opening the bid and closing the call for the proposal. The Coordinator, Purchasing shall execute a purchase order or the Director, Corporate Services and Treasurer shall execute a contract. No report is required.

Where it is estimated that the total cost of the goods or services, inclusive of delivery charges and tax will cost **more than \$50,000** the Coordinator, Purchasing in consultation with the requisitioning Department shall issue a Request for Proposal. Proposals require a reply by a designated day and time. An Officer of the bidding company must sign the reply. These proposals are not formally opened in public, but submitting bidders will be acknowledged. If only one proposal is received, the Town has the option of not opening the bid and recalling the proposal. The Coordinator, Purchasing in conjunction with the user Department and the Director, Corporate Services and Treasurer or designate will submit a report to Council for authority to award. The Coordinator, Purchasing will issue a purchase order or the Mayor and Town Clerk shall execute a contract.

e) **PROCEDURES APPLICABLE TO TYPES OF BIDS**

The Coordinator, Purchasing, may from time to time pre-qualify persons or firms or obtain desired information for any bid call where the Coordinator, Purchasing believes it to be in the best interest of the Town.

Where the Corporation contracts work out in an agreement with the private sector, the policies and procedures of the Corporation will prevail in all bid calls.

Through the utilization of the Town's website every effort will be made to send notification to firms. The onus is on interested firms to review the website and the Ontario Public Buyers' website (www.opba.ca) from time to time for competitions that may be of interest to them.

Except as otherwise provided, no work may commence or commitment to purchase goods shall be entered into, until such time as an Official Purchase Order has been issued or a Contract signed, and all necessary documents and approvals received.

Each sealed bid received in response to a formal bid request is reviewed to determine whether a bid irregularity exists, and action is taken according to the nature of the irregularity (see Appendix A).

6. **LEASING**

In certain circumstances, it may be economically advisable for the Town to enter into a Financing Lease to acquire the rights to use capital property and equipment rather than an outright purchase.

The Director, Corporate Services and Treasurer in accordance with the Town's Leasing Policy must review all lease arrangements.

A report initiated by the Coordinator, Purchasing shall be issued to Council for award and financing approval. The report shall authorize the Mayor and Clerk to sign the leasing contract.

7. **CO-OPERATIVE BID CALLS:**

- a) The Coordinator, Purchasing shall have the authority to join or participate with other units of government, as a named agency, including local boards, commissions and agencies in co-operative purchasing, and bulk buying of goods and services. The Coordinator, Purchasing may acquire any goods or services from an existing government contract if it is deemed to be in the best interest of the Town.
- b) Purchases made through co-operative buying procedures require approval outlined in this policy. As such, the calling agency's terms and conditions will apply.

8. **REPORTS**

- a) Reports to Council will be required if one of the following circumstances exist:
 - The lowest acceptable bid is not being recommended;

- The acquisition exceeds the budgeted by more than the Director, Corporate Services and Treasurer's signing authority
 - Low bid is being recommended but does not meet major specifications;
 - Purchasing Policy is being waived;
 - Proposal awards over \$50,000
 - Tender awards over \$500,000
 - The CAO requests a report be written
 - Identical bids were received
 - One or more of the bidders has a unacceptable conflict of interest
 - Low bidder has current or pending legal action resulting from a previous contract.
- b) The report will be submitted by the Coordinator, Purchasing in consultation with the requisitioning Department and the Director, Corporate Services and Treasurer or designate. Upon approval, the Coordinator, Purchasing shall execute a purchase order and/or the Mayor and the Town Clerk shall execute a contract.
- c) All bids that are being awarding to the lowest responsive bidder and that are within the delegated financial guidelines for the Director, Corporate Services and Treasurer will be award by the Coordinator, Purchasing by the Delegated Authority Report. The Delegated Authority Report will be prepared by the Coordinator, Purchasing and signed by the CAO, User Department Head and the Director, Corporate Services and Treasurer.
- d) Monthly, the Coordinator, Purchasing shall provide a report to Council, which identifies the awards made during the previous quarter and the amounts that have been authorized for the goods/services.

9. **SPECIFICATIONS:**

- a) The requisitioning department shall be responsible to prepare and provide to the Coordinator, Purchasing, specifications when required. The Coordinator, Purchasing shall review all specifications, terms and conditions and have the authority to recommend changes.
- b) Where practical specifications or Terms of Reference should be considered, that are detailed but not brand specific, care shall be taken to ensure potential bidders may provide alternatives in the event an equal or better-proven product or method is available.

10. **SPECIFICATION DEVELOPMENT:**

Suppliers, potential suppliers and consulting firms shall not be requested to expend time, money, or effort to design or in developing specifications or otherwise help define a requirement beyond the normal level of service expected. Should such services be required, the Coordinator, Purchasing will be advised. If there is no alternative but to request such services, then the company providing it

shall be compensated at a pre-determined fee. The resulting specifications shall become the property of the Corporation for use in obtaining competitive bids.

Suppliers or Consultants who provide Design Services and/or specifications for work to be bid may or may not be permitted to submit a bid for said work.

11. **EMERGENCY PURCHASES:**

- a) When an emergency occurs, the Coordinator, Purchasing has the authority to issue a purchase order, upon receiving a written request from the Department Head concerned, for the goods or services required. For expenditures in excess of \$10,000, the Coordinator, Purchasing shall obtain the prior approval from the Director, Corporate Services and Treasurer.
- b) After the emergency is over, any expenditure over and above this Policy's authorization shall be reported according to the requirements of the Policy.

12. **PERFORMANCE EVALUATION:**

The Coordinator, Purchasing shall institute a performance evaluation at the substantial completion of the contract, or more frequently if determined by the Coordinator, Purchasing to be more appropriate, in all contracts where:

- the cost of the construction contracts that exceed \$500,000 or consulting services that exceed \$100,000.00 or
- in any other consulting or construction contracts where the Coordinator, Purchasing determines that a performance evaluation would be appropriate.

The Coordinator, Purchasing in conjunction with the Project Manager, responsible for overseeing the project, shall conduct the performance evaluation.

The performance evaluation shall rate the performance of the contractor and/or consultant on criteria determined by the Coordinator, Purchasing, and the Project Manager, to be appropriate in determining if the Town has obtained a satisfactory level of performance by the contractor or consultant. The performance evaluation form and criteria adopted from time to time shall be provided to the contractor or consultant in advance of the contract, and shall remain constant for the duration of the term of the contract. The same evaluation criteria shall apply to all consultant or construction projects undertaken for the Town, but may be amended from time to time by the Coordinator, Purchasing.

The contractor or consultant shall be provided with the written results of the performance evaluation. The contractor or consultant shall have twenty days following delivery of the evaluation to request an appeal.

A Dispute Committee that will hear from both Town staff and the contractor, at a time and place appointed in writing by the Committee shall conduct the appeal. The Dispute Committee shall be comprised of the Coordinator, Purchasing, Purchasing, Director of Corporate Services, and the Director of the User Department. The decision of the Dispute Committee shall be in writing, a copy of which shall be provided to the contractor or consultant, and the decision of a majority of the Dispute Committee shall be final.

The performance evaluation shall determine whether a contractor or consultant, or any related contractor or consultant, will be allowed:

- (i) to tender or respond to requests for proposals for future contracts with the Town of Milton while identified issues are resolved;
- (ii) or that the contractor be placed on a probationary list for a period of time during which time it shall be not permitted to bid or propose work for the Town.
- (iii) or that the contractor be prohibited from bidding or proposing on any contracts with the Town during a three-year period.

In reaching a determination the Project Manager and/or the Dispute Committee, shall be entitled to rely upon the evaluation criteria determined in advance of the project, any correspondence, consultant notes and the results of prior performance evaluations relating to other contracts performed by the same contractor, consultant or related contractor or related consultant.

No bid will be recommended for an award from any contractor or consultant, or related contractor or consultant, during the term of a prohibition.

In determining whether a bid is being received from a related party, any consultant or contractor submitting a tender or quotation to the Town shall be required to submit a statement disclosing its principal shareholders (if a privately held corporation), the members of its Board of Directors, its partners or proprietors, its senior management, and those managers having specific responsibility for completion of the proposed contract with the Town. The Coordinator, Purchasing may determine that the tendering or proposing party is related if there is a substantial connection between the shareholders, directors, partners, proprietors, senior management or managers proposed to be in charge of the work for the Town, and those persons holding similar positions with prohibited contractors or consultants. The decision of the Coordinator, Purchasing may be appealed to the Dispute Committee within five days of the delivery of the Coordinator, Purchasing decision to the contractor or consultant. The composition of the Dispute Committee, its procedure, and the finality of its decision, shall be as provided above.

13. PURCHASES BY NEGOTIATION:

The Coordinator, Purchasing may under the following conditions negotiate with one or more bidders and in such cases the requirement for inviting tenders or quotations is waived:

- a) when in the judgment of the Coordinator, Purchasing, goods are judged to be in short supply due to market conditions;
- b) where there is only one source of supply for the goods or services;
- c) when compatibility with an existing product, facility or service is required;
- d) where two or more identical bids have been received;
- e) where the lowest bid meeting specifications and the terms and conditions exceed the approved budget of the goods and services and it is impractical to re-bid;
- f) when all bids received fail to meet the specifications or tender terms and conditions and it is impractical to recall tenders or quotations;
- g) when no bids are received in a bid call;
- h) when only one bid received in a bid call;
- i) when work is required at a location where a contractor has already been secured through a bid process, with established unit prices and it is considered to be beneficial and cost effective to extend the unit prices for the work to be completed
- j) after the RFP process, it may be necessary for discussion and revision of the proposal.

When negotiations are deemed necessary they shall be carried out jointly in co-operation with the Department subject to the conditions of this Policy.

The methods of negotiation shall be those accepted as standard negotiating procedures that employ fair ethical practices, as outlined in the Purchasing code of ethics of the Purchasing Management Association of Canada and the National Institute of Governmental Purchasing Inc.

14. LOCAL PREFERENCE

The Town will endeavour to achieve Best Value in its commercial transactions. As a consequence the Town will not practice local preference in awarding purchases. This will allow the Town to comply with the Discriminatory Business Practices Act, R.S.O. 1990, Chapter D12.

15. **ENVIRONMENTALLY FRIENDLY PRODUCTS & SERVICES**

The purchase of environmentally responsible products and services will be considered at all times. These products and services are defined as those having a lesser or reduced effect on human health and the environment when compared to other products and services that serve the same purpose. Specifications will include, unless otherwise justified, environmentally responsible products that: use recycled materials; are durable, reusable or are designed to be recycled; consume fewer resources in their manufacture and/or their use; and services that use environmentally responsible practices.

16. **LOBBYING PROHIBITED (as it relates to the award of a contract)**

If any director, officer, employee, agent or other representative of a respondent team, including any other parties that may be involved in a joint venture, consortium, or similar business relationship with the respondent, makes, from and after the closing date of the bid document, any representation or solicitation to any elected representative or employee or agent of the Town of Milton, or to the media, with respect to the respondent's submission, the Town will be entitled to reject said submission. This requirement does not extend to any public deputations that may be made to any Town committee in accordance with the respective Town's Procedural By-laws. The Coordinator, Purchasing in consultation with the User Department and the Director, Corporate Services and Treasurer will issue the notice of rejection.

17. **DISPOSAL OF SURPLUS:**

- a) Where any goods are surplus, obsolete or unrepairable, they shall be declared surplus to the Coordinator, Purchasing through the Department Head.
- b) When no other use can be found for these items in other Departments, they shall be added to the surplus list and at the discretion of the Coordinator, Purchasing, disposed of through formal auction, internet auction, tender or quotation or trade-in, whichever is in the best interest of the Corporation. Any remaining surplus may be awarded to any non-profit entity.
- c) When items are unrepairable the Coordinator, Purchasing may dispose of the item(s) through a licensed waste hauler.
- d) Where the item has limited market value the Coordinator, Purchasing may, to the benefit of the Corporation, dispose of the item in a manner other than the ones listed above.
- e) Annually, an information report shall be submitted to Council indicating the surplus products and the value obtained for the goods as a whole.

18. **CONFLICT OF INTEREST:**

- a) The Coordinator, Purchasing shall not consider any bid, or otherwise acquire any goods or services from an elected official, officer or employee of the Town.
- b) No Council member or employee of the Town may purchase goods or services for personal use through the Corporation.
- c) No elected official, officer or employee of the Town shall allow contact with a person, or any officer, employee or agent of the person who has submitted a bid to the Town unless the bid call has been awarded or the contact is for the purpose of receiving a complaint.
- d) No employee or elected official shall purchase or offer to purchase, on behalf of the Town, any goods and/or services, except in accordance with this Policy.
- e) No contract or purchase shall be divided to avoid requirements of this Policy.
- f) Where required, a conflict of Interest form may be included as part of the bid call, that requires all bidders to declare any Conflicts of Interest. The Coordinator, Purchasing in consultation with the user Department and the Director, Corporate Services and Treasurer will determine if the conflict is to the detriment of the Town and should not be considered for award. A report to Council will be submitted, for this award.

19. **LEGAL CLAIMS:**

No tender, proposal or quotation will be accepted from any company inclusive of its sub-contractor, which has a claim or instituted a legal proceeding against the Town or against whom the Town has a claim or instituted a legal proceeding with respect to any previous contract, without prior approval by Council.

20. **PURCHASE ORDER NOT REQUIRED:**

A purchase order is not required for the following items or class of items unless specifically requested by the Requisitioner:

- a) Petty Cash Items;
- b) HR requirements (i.e.: Training and Education);
- c) Refundable Employee Expenses;
- e) Professional and Special Services (i.e.: Committee fees, witness fees, court reporter fees, honoraria, arbitrators, legal settlements, financial services);
- f) Utilities – (i.e.: Postage, water, sewer, cable television);
- g) Freight Charges;
- h) Other government agencies.

21. **ADMINISTRATION**

The Coordinator, Purchasing will bring forward from time to time amendments to this Policy to update, whether adding new clauses or adjusting those currently in force.

In this policy, unless the context requires otherwise, words importing the singular shall include the plural and words importing the masculine gender, shall include the feminine.

APPENDIX A

BID IRREGULARITIES

BID IRREGULARITY

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

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

A "**major irregularity**" is a deviation from the bid request, which affects the price, quality, quantity or delivery, and is material to the award. If the deviation is permitted, the bidder could gain an unfair advantage over competitors. The Coordinator, Purchasing must reject any bid, which contains a major irregularity.

A "**minor irregularity**" is a deviation from the bid request, which affects form, rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. If the deviation is permitted or corrected, the bidder would not gain an unfair advantage over competitors. The Coordinator, Purchasing may permit the bidder to correct a minor irregularity.

ACTION TAKEN:

The Coordinator, Purchasing is responsible for all action taken in dealing with bid irregularities, and acts in accordance with the nature of the irregularity:

- major irregularity;
- minor irregularity; or
- mathematical error (additions or extensions).

1. MAJOR IRREGULARITY - AUTOMATIC REJECTION

Failure to meet any of the following requirements constitutes a major irregularity. The Coordinator, Purchasing must reject the bid without further consideration.

- (a) The bid must be received and time-stamped by Corporate Services, Purchasing Division by official bid closing time.
- (b) Price-related information must be non-erasable (i.e. in ink, or typewritten). Prices must be complete and specified in accordance with the bid request.
- (c) Bid surety must be submitted with the bid when the bid request (or any addenda) indicated that such surety is required. Bid surety must be in the form specified in the bid request, or in a form providing equivalent or greater financial security for the Town. Amount of bid surety must be no less than the amount indicated in the bid request, when a dollar amount is specified.

- (d) Proof of authority (corporate seal or signatures) to bind the bidder must be evident in the bid submission when the bid request (or any addenda) indicated that such proof is required.
- (e) Bid or performance bonding company must be licensed to conduct business in Canada and in the province of Ontario.
- (f) Notwithstanding provisions for "alternate bids" which may be contained in the bid request, bids must conform to the essential requirements in the specifications or terms of reference. Essential requirements are those, which are necessary to perform the intended operation.
- (g) Bidders must attend site meetings if such attendance is identified in the advertisement and bid request as mandatory.

NOTE: The above list of irregularities should not be considered all-inclusive. The Coordinator, Purchasing after consultation with the requisitioning department, may reject a bid based on an irregularity not listed, but considered major.

The Coordinator, Purchasing prior to any bid award will notify bidders whose bids are rejected due to a major irregularity.

2. **MINOR IRREGULARITY - BIDDER MAY RECTIFY**

Failure to meet the following requirements constitutes a minor irregularity. The Coordinator, Purchasing will notify the bidder and ask that the deviation from the bid request be rectified within a specified time (usually two working days from the time of notification). If the information is not provided within the specified time, the Coordinator, Purchasing will reject the bid.

- Technical specifications documents not completed and submitted with the bid, when specified in the bid request.

NOTE: This should not be considered all-inclusive. The Coordinator, Purchasing in consultation with the requisitioning department will review minor irregularities. The Coordinator, Purchasing, may then accept the bid, or request that the bidder rectify the deviation.

3. **MATHEMATICAL ERRORS - RECTIFIED BY STAFF**

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