



## BY-LAW

NO. 2025 – 068

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### Being a By-law to Adopt a Procurement Policy for The Corporation of the Municipality of Kincardine

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**Whereas** pursuant to the said Municipal Act, Sections 8 and 9 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

**Whereas** Section 270 (1) of the Municipal Act 2001, S.O. 2001, c. 25, as amended, requires a municipality to adopt and maintain a policy with respect to the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public; and

**Whereas** the Council of the Corporation of the Municipality of Kincardine desires to adopt a new Procurement Policy; now therefore be it

**Resolved** that the Council of The Corporation of the Municipality of Kincardine **Enacts** as follows:

1. That the Procurement Policy for The Municipality of Kincardine, attached hereto as Schedule 'A' and forming part of this By-law be adopted.
2. That this By-law shall come into full force and effect upon its final passing.
3. That Policy GG.2.17 passed by Resolution #03/22/22 - 02 and all other Policies inconsistent with this By-law, be repealed.
4. That By-law may be cited as the "Procurement Policy By-law".

**Read a First, Second and Third Time and Finally passed** this 14<sup>th</sup> day of May, 2025.

Kenneth Craig

Signed with ConsignO Cloud (2025/05/17)  
Verify with verifio.com or Adobe Reader.



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Mayor

Jennifer Lawrie

Signed with ConsignO Cloud (2025/05/20)  
Verify with verifio.com or Adobe Reader.



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Clerk

## **Schedule 'A'**

**Policy No.:** FIN.08

**Section:** Your Government and People

**Policy Title:** Procurement Policy

**Adopted Date:** May 14, 2025

**By-law No.:** 2025 - 068

**Revision Date:**

### **1. Purpose**

This policy applies to the acquisition of Goods and Services by the Municipality of Kincardine with the exception of goods and services in Schedule A (Exclusions). The objectives of this policy are to:

- a) promote openness, honesty, fairness, integrity, accountability, and transparency in the Municipality's procurement activities; and
- b) obtain the best value for money in the procurement of Goods and Services for the Municipality; and
- c) clearly identify the roles, responsibilities, and accountability of individuals involved in the procurement process; and
- d) promote ethical conduct and prevent conflicts of interest – real, apparent, and potential – between suppliers and elected officials and staff; and
- e) ensure compliance with the Municipality's legal and trade agreement obligations.

### **2. Scope**

This policy applies to all departments of the Municipality for the procurement of goods, services and construction.

### **3. Definitions**

Words and phrases used in this policy have the following meanings, unless expressly stated otherwise:

"Approval Authority" means the position at the Municipality authorized to approve expenditures, procurement strategies, procurement documents or Contract awards as set out in this Policy.

"Bid" means a proposal, tender or other form of supplier submission to the Municipality in response to a RFx.

"Bidder" means a supplier that submits a Bid.

"Buying Group" means a cooperative arrangement in which individual members administer the procurement function for specific Goods or Services for the group and includes a Buying Group entity where the entity administers procurement for its members. For clarity, standing arrangements established by provincial/territorial and federal governments that are open to municipalities are deemed to be Buying Group Contracts under this policy.

"CFTA Threshold" means the threshold for covered procurement specified in Article 504(3)(b)(i) of the Canadian Free Trade Agreement (CFTA), as updated from time to time in accordance with the CFTA and published on the Internal Trade Secretariat website (cfta-alec.ca). For certainty, in this policy, the CFTA Threshold for goods and services also applies to the purchase of construction services.

"Contract" means a written agreement between the Municipality and a Contractor for the procurement of Goods or Services by any contractual means, including purchase, lease, and rental, with or without an option to buy. For purposes of this policy, a Contract includes a PO that serves as the purchasing Contract.

"Contract Value" has the meaning assigned in Section 5.3.1 (Determining the Contract Value).

“Contractor” means a supplier that is a party to a Contract for the supply of Goods or Services to the Municipality.

“Council” means the Council of The Corporation of the Municipality of Kincardine.

“Department Head” means the head of a department operating within the Municipality regardless of their title or, for purposes of this policy, their authorized delegate.

“Emergency” has the meaning assigned in 6.3.11 (Emergency).

“Goods” means tangible and intangible moveable property and includes supplies, equipment, materials, products, software, furniture, structures, and fixtures to be delivered, installed, or constructed.

“Invitational Competitive Process” means a competitive process where the Municipality invites selected suppliers to submit a Bid without public advertisement.

“Municipality” means The Corporation of the Municipality of Kincardine.

“Non-Competitive Procurement” means the procurement of a Good or Service directly from a supplier without a competitive process.

“Prequalification Process” means a publicly advertised opportunity for suppliers to prequalify for participation in one or more procurement processes.

“Prequalified Supplier List” means a list of suppliers that have satisfied the requirements of a Prequalification Process and are prequalified to participate in future procurements covered by the list.

“Procurement Card” means a credit card or purchasing card for staff to use in the procurement of low dollar value Goods and Services for the Municipality as authorized by the Treasurer.

“Procurement Strategy” means the planned approach to a procurement, including the procurement method, procurement vehicle and type of Contract.

“Public Competitive Process” means a competitive process where the Municipality publicly advertises, on the Municipality’s designated tendering website, an invitation to suppliers to submit a Bid.

“Purchase Order” or “PO” means a purchase order document, issued by the Municipality that confirms the Municipality’s commitment to procure specified Goods or Services from a Contractor.

“RFx” means a document inviting suppliers to submit Bids leading to a Contract for the purchase of Goods or Services by the Municipality.

“Services” means all services, including construction services, unless otherwise specified.

## **4. Responsibility**

### **4.1 General Responsibilities**

All Municipality staff and any other person or agency authorized to purchase Goods and Services on behalf of the Municipality must comply with this policy and related procedures.

## **4.2 Council's Role**

- a) Council's role in procurement is, generally, to establish the policy, set the budget, approve modifications to the budget, monitor the Municipality's procurement, contracting and project activities and approve recommendations to award Contracts.
- b) Council has the ultimate authority for this policy and may approve exceptions and amendments to this policy.

## **4.3 CAO Responsibilities and Authority**

- a) The CAO is accountable to Council for the proper administration of, and staff compliance with, this policy and related procedures.
- b) The CAO may exercise the authority delegated to any other Approval Authority, other than Council, or override the decisions made by such other Approval Authorities, if necessary.

## **4.4 Treasurer Responsibilities and Authority**

- a) The Treasurer is responsible for the development and maintenance of procedures and related documents consistent with this and other Municipality policies, applicable laws, and the trade agreements.
- b) The Treasurer is responsible for monitoring and recording expenditures against approved budgets, and approving payments, as set out in this policy.
- c) The Treasurer is responsible for communicating the CFTA Threshold and applicable updates to the threshold in writing to staff, as needed.
- d) The Treasurer will assist Department Heads, as appropriate, in the interpretation of this policy and related procedures.

## **4.5 Department Head Responsibilities and Authority**

- a) Subject to the requirements of this policy, Department Heads are authorized to procure Goods and Services on behalf of the Municipality.
- b) Department Heads are accountable for, and must oversee, all procurement and contracting activities within their department to ensure compliance with this policy and other Municipality policies and related procedures.

## **4.6 General Prohibitions**

In carrying out procurement and contracting activities, staff and other persons undertaking procurements on behalf of the Municipality must not:

- a) divide purchases to avoid the requirements of the policy by any method;
- b) purchase any Goods or Services through Contracts for personal use by or on behalf of any member of Council, employees of the Municipality and their immediate families;
- c) circumvent the requirements of this policy including, but not limited to, biasing specifications or scheduling events to prevent suppliers from meeting requirements; or
- d) provide information to one supplier to give that supplier an advantage over other suppliers.

# **5. Delegation of Authority**

## **5.1 Expenditure Authorization**

5.1.1 The CAO and each Department Head is delegated the authority to expend Municipality funds in accordance with Council approved budgets. Regardless of any such approval, all authorized expenditures must be made in accordance with the requirements of this policy, which may include the requirement for additional budget or Contract approvals.

5.1.2 The following exceptions apply to this general expenditure authorization:

- a) Prior to the Council adopting the budget, each Department Head may commit up to 50% of the previous year's departmental operating budget and up to 25% of the previous year's departmental capital budget. The capital commitment of 25% applies only to projects that were approved by Council in prior years or in cases where pre-budget Council approval has been obtained.
- b) In the event of an Emergency, in which case the CAO must report such purchase to Council as soon as possible.

- c) To pay invoices in connection with Goods or Services required to maintain the Municipality’s services and day-to-day operations between budget approvals cycles, including the payment of accounts or previously approved capital items and projects.

5.2 Budget Transfer Authorities

- a) Where additional funds will be required to complete a project and where funds are available within the departmental budget, the transfer of funds may be made with the following approvals:

Transfer Within Capital/Operating Budget	
Under \$15,000	Department Head
\$15,000 to \$50,000	Treasurer, with report to CAO
Above \$50,000	Council

Transfer Between Capital and Operating Budget	
Up to \$50,000	Treasurer, with report to CAO
Above \$50,000	Council

- b) Transfers that exceed the total limit of the departmental budget must be recommended for Council approval by the respective Department Head and the Treasurer.
- c) A budget transfer approval is not a Contract amendment approval. Contract amendments arising from the foregoing approvals must be processed for approvals as set out in this policy.

5.3 Procurement and Contract Award Authorization

5.3.1 Determining the Contract Value

- a) Procurement Strategy and Contract Award approval thresholds as set out in the table below are based on the Contract Value and not the approved budget.
- b) The “Contract Value” is the estimated total expenditures under a Contract over the entire period of the Contract, including options and renewal periods, exclusive of taxes.
- c) Where the estimated total expenditures or the period of the Contract is not known or specified, the Treasurer will determine the estimated Contract Value based on principles set out in the trade agreements.

5.3.2 Approval Authority for Competitive Procurements

The following Approval Authorities apply to Competitive Procurements:

Approval Authority for Competitive Procurements

Contract Value

Approval of Procurement Strategy and, where applicable, RFx Document

Approval to Award Contract

Approval Authority for Competitive Procurements		
Contract Value	Approval of Procurement Strategy and, where applicable, RFx Document	Approval to Award Contract
Under \$25,000	Department Head	Department Head

Approval Authority for Competitive Procurements		
Contract Value	Approval of Procurement Strategy and, where applicable, RFx Document	Approval to Award Contract
\$25,000+	Department Head and Treasurer, jointly	Treasurer and CAO
Special Council Approval Required (Section 5.3.5)	Department Head and Treasurer, jointly	Council

**5.3.3 Approval Authority for Non-Competitive Procurements**

The following Approval Authorities apply to Non-Competitive Procurements:

Approval of Non-Competitive Procurements	
Contract Value	Approval to proceed with Non-Competitive Procurement based on recognized exemption <sup>(1)</sup>
Under \$25,000	Department Head
\$25,000 to \$50,000	Treasurer
\$50,000- CFTA Threshold	Treasurer and CAO
Over CFTA Threshold	Council subject to receipt of written justification and joint recommendation of CAO and Department Head

(1) The recognized exemptions to competitive procurements are listed in Section 6.3 (Exemptions to Competitive Procurement).

**5.3.4 Emergency Procurements**

- a) A Department Head may initiate a procurement in the event of an Emergency without regard to obtaining pre-approvals based the Contract Value provided that: (i) the CAO or Treasurer’s pre-approval will be sought where possible; and (ii) the Contract Value will be limited to the value necessary to address the Emergency.
- b) The Department Head must notify the CAO and Treasurer as soon as possible of an Emergency procurement and the CAO must report an Emergency procurement to Council as soon as possible.

**5.3.5 Special Council Approvals**

Regardless of the Contract Value, Council approvals are required where:

- a) in the case of Competitive Procurement, staff does not recommend awarding the Contract to the lowest compliant Bidder under an RFT, or highest ranked compliant Bidder under a RFP or there is an irregularity that the CAO determines requires Council direction or decision; or
- b) Council approval is mandated either by statute or by a third party, such as a funding agency.
- c) the Contract Value exceeds the Council-approved budget and the excess is greater than the Budget Transfer Authorities set out in Section 5.2 (Budget Transfer Authorities).

**5.3.6 Quarterly Information Reports to Council**

- a) For information purposes, the Treasurer, in coordination with the Department Heads, shall submit a quarterly report to Council on Contract awards, Contract renewals/extensions and Contract amendments valued at \$50,000 or higher that were undertaken since the previous report. The report will, at minimum, include the date of award, name of Contractor, type of good or service, reason for and value of amendment (if applicable) and total Contract Value.
- b) For information purposes, the CAO jointly with the Department Heads, shall submit a quarterly report to Council on project status for Contracts valued at \$1,000,000 or higher.

**5.4 Purchase Order and Contract Signing Authorization**

5.4.1 Unless otherwise authorized by the Treasurer, a Purchase Order or Contract must be associated with each purchase of Goods or Services, except for purchases authorized to be made with a Procurement Card or petty cash purchases.

5.4.2 Department Heads are authorized to sign Purchase Orders under \$25,000 based on the Municipality's standard terms and conditions. Any changes to the Municipality's terms and conditions must be approved by either the Treasurer or the CAO.

5.4.3 All Contracts valued at \$25,000 or higher must be signed jointly by the CAO and Treasurer or their duly appointed delegates.

5.4.4 Council-approved Contracts must be signed jointly by the CAO and Mayor or their duly appointed delegates.

**5.5 Contract Renewal, Amendment, Termination Authorization**

**5.5.1 Renewal or Extension of Contract**

- a) Department Heads are authorized to renew or extend Contracts without a further competitive process if the following conditions are met:
  - i. sufficient funds are available in the departmental budget; and
  - ii. the Contract includes an option to renew or extend.
- b) If the Contract does not include an option to renew or extend, the renewal or extension is deemed to be a new procurement requirement for purposes of this policy.

**5.6 Amendments to Add Goods or Services to a Contract**

5.6.1 Department Heads are authorized to amend Contracts to add Goods or Services and increase the total Contract Value to an amount below \$15,000 without a further competitive process provided the following conditions are met: (i) sufficient funds are available in the departmental budget; and (ii) the Contract either includes an option to add the class of Goods or Services or the addition of Goods or Services is deemed to be necessary for the completion of an approved project. An amendment to add Goods or Services that increases the Contract Value by \$15,000 or more must be approved by the Treasurer.

5.6.2 Where the conditions in paragraph (a) are not met, the non-competitive amendment to add Goods and Services must fall within an acceptable exemption from a competitive procurement, as set out in Section 6.3 (Exemptions to Competitive Procurement) and be approved in accordance with this policy.

**5.7 Approval to Terminate Contracts**

5.7.1 Contracts may only be terminated prior to the Contract expiration date with the CAO's approval.

**5.8 Invoice Payment Authorization**

5.8.1 All invoices from Contractors shall be verified and approved for payment by the applicable Department Head prior to payment.

5.8.2 By approving an invoice, the Department Head is confirming the Goods or Services have been received and conformed with the requirements of the Contract or, in the case of advanced payments, the payment is being made as contemplated by the Contract.

5.8.3 The Treasurer may only authorize payment of invoices which have been verified and approved in accordance with this policy.

**5.9 Sub-Delegation of Authority**

5.9.1 Delegation of an approver’s Approval Authority, including signing authority, may be made as deemed appropriate by the approver designated in this policy.

5.9.2 Approval Authority that has been delegated may not be further sub-delegated.

5.9.3 All delegations must be made in writing and signed by the approver designated in this policy and forwarded to the Finance department.

5.9.4 Regardless of any delegation, the person delegating Approval Authority is responsible for ensuring, and remains accountable for, a delegate’s compliance with this policy and related procedures.

**6. Procurement**

**6.1 Competitive Process Required**

- a) A competitive process must be used to procure Goods or Services unless the conditions are met for a Non-Competitive Procurement or the Good or Services is listed in Schedule A (Exclusions).
- b) A Non-Competitive Procurement is only permitted where:
  - i. the Contract Value is less than \$25,000 and the Department Head determines it is not in the Municipality’s best interest to seek competitive quotes;
  - ii. the Contract Value is \$25,000 or more and the procurement is exempt from competitive procurement requirements based on the exemptions set out in Section 6.3 (Exemptions to Competitive Procurement) of this policy.

**6.2 Procurement Methods**

6.2.1 The following are the procurement methods used for procuring Goods or Services, subject to exceptions as may be provided for in the procedures:

Contract Value	Procurement Methods	Procurement Vehicle
Under \$500	Non-competitive / direct purchase	Petty Cash, Procurement Card
\$500 - \$9,999	Non-competitive / direct purchase <sup>(1)</sup>  <u>Optional:</u> Invitational Competitive Process (informal)	Procurement Card, Purchase Order  Price comparisons or quotes requested by phone or email.
\$10,000 - \$24,999	Non-competitive / direct purchase <sup>(1)</sup>  <u>Optional:</u> Invitational Competitive Process (informal)  Invitational Competitive Process (formal)	Purchase Order with standard terms and conditions  Price comparisons or quotes requested by phone or email.  RFx issued to 2 or more suppliers
\$25,000 to the CFTA Threshold	Invitational Competitive Process (formal)  <u>Optional:</u> Public Competitive Process	RFx issued to 3 or more suppliers

Over the CFTA Threshold	Public Competitive Process	RFx publicly advertised
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(1) Department Heads are responsible for ensuring the Municipality is obtaining the best value for money and should be prepared to justify foregoing a competitive process.

**6.2.2 Invitational Competitive Process (informal)**

An informal invitational competitive process consists of soliciting written quotes from, or comparing prices of, more than one supplier prior to selecting the supplier.

**6.2.3 Invitational Competitive Process (formal)**

A formal invitational competitive process involves the release of a RFx, using the Municipality’s template RFx, to selected suppliers without advertisement.

**6.2.4 Public Competitive Process**

- a) For procurements over the CFTA Threshold, the Department Head must conduct a Public Competitive Process by advertising the RFx on the tendering website designated by the Municipality for this purpose, unless a Non-Competitive Procurement has been approved by Council.
- b) A formally executed Contract must be used for requirements with a Contract Value over the CFTA Threshold unless the Treasurer has approved the use of a Purchase Order.

**6.3 Exemptions To Competitive Procurement**

6.3.1 Contract Value Under \$25,000: The Municipality may use a Non-Competitive Procurement if the Contract Value is under \$25,000 and the responsible Department Head determines it is not practical to seek quotes.

6.3.2 Contract Value is Over \$25,000 and up to the CFTA Threshold with CAO or Treasurer Approval: The Municipality may use a Non-Competitive Procurement if the Contract Value is over \$25,000 and up to the CFTA Threshold where it is determined by the CAO or Treasurer that seeking competitive quotes is not in the best interest of the Municipality.

6.3.3 No Compliant Bids Received: The Municipality may use a Non-Competitive Procurement if a competitive process was conducted and:

- a) no Bids were submitted;
- b) no suppliers satisfied the conditions for participation; or
- c) no submitted Bids met the essential requirements of the RFx.

In these circumstances, the Non-Competitive Procurement must be based on substantially the same requirements and specifications that were set out in the RFx.

**6.3.4 Only One Supplier:**

The Municipality may use a Non-Competitive Procurement if the Goods or Services can be supplied only by a particular supplier and no reasonable alternative or substitute Goods or Services exist for any of the following reasons:

- a) the requirement is for a work of art;
- b) the protection of patents, copyrights, or other exclusive rights;
- c) due to an absence of competition for technical reasons;
- d) the supply of Goods or Services is controlled by a supplier that is a statutory monopoly;
- e) to ensure compatibility with existing Goods, or to maintain specialized Goods that must be maintained by the manufacturer of those Goods or its representative;
- f) work is to be performed on property by a Contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
- g) work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor.

**6.3.5 Additional Deliveries:**

The Municipality may use a Non-Competitive Procurement for additional deliveries by the original supplier of Goods or Services that were not included in the initial procurement, if a change of supplier for such additional Goods or Services:

- a) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, Services, or installations procured under the initial procurement; and
- b) would cause significant inconvenience or substantial duplication of costs for the Municipality.

**6.3.6 Commodity Market Goods:** The Municipality may use a Non-Competitive Procurement for Goods purchased on a commodity market such as electricity, postal services, postage, water, fuel, natural gas, furnace oil.

**6.3.7 Prototype and Pilot Projects:** The Municipality may use a Non-Competitive Procurement if the Municipality procures a prototype or Good or Service to be developed in the course of a Contract for research, experiment, study, or original development, but not for subsequent purchases of the Good or Service in regular production.

**6.3.8 Exceptionally Advantageous Conditions – Unusual Disposals:** The Municipality may use a Non-Competitive Procurement for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers.

**6.3.9 Winner of Design Contest:** The Municipality may use a Non-Competitive Procurement if a Contract is awarded to a winner of a design contest provided that:

- a) the contest has been publicly advertised and organized in a fair and transparent manner; and
- b) the participants are judged by an independent jury.

**6.3.10 Confidential or Privileged Goods or Services:** The Municipality may use a Non-Competitive Procurement if Goods or Services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through a competitive process could reasonably be expected to compromise government confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.

**6.3.11 Emergency:** The Municipality may use a of Non-Competitive Procurement, if necessary, to obtain Goods or Services required in the event of an emergency. An “Emergency” is an exceptional situation that could include:

- a) An imminent or actual danger to the life, health, or safety of any person;
- b) An imminent or actual danger of injury to or destruction of real or personal property;
- c) An imminent or actual unexpected interruption of a public service essential to the community;
- d) An emergency as defined by the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9 and the emergency plan formulated thereunder by the Municipality; and
- e) An imminent or actual spill of a pollutant as contemplated by Part X (Spills) of the Environmental Protection Act.

**6.4 Bidder Debriefing**

6.4.1 The Municipality shall, on request by an unsuccessful Bidder, provide a debriefing during which the Bidder will be provided the reasons why the Municipality did not select their Bid.

**6.5 Supplier Complaints**

6.5.1 Any supplier that wishes to file a complaint relating to a procurement process is required to provide a written complaint in accordance with the Municipality’s Citizen Complaints Policy within five (5) business days of attending a debriefing or, if the

supplier is not a Bidder, within ten (10) business days of (i) becoming aware of the basis for a procurement complaint or (ii) date of publication of award.

#### **6.6 Cooperative Purchasing (Buying Groups)**

- a) The Municipality may join one or more Buying Groups or purchase from a Buying Group Contract with Treasurer's approval.
- b) Once the Treasurer has approved the Municipality's participation in a Buying Group, a Department Head may enlist the Municipality in the Buying Group Contract or participate in a procurement process administered by the Buying Group without undergoing a competitive procurement process however approvals to award the Contract as set out in Section 5.3.2 (Approval Authority for Competitive Procurements), based on Contract Value, must still be obtained prior to committing the Municipality to purchase any Goods or Services.

#### **6.7 Supplier Eligibility**

- (a) The Municipality may, subject to the CAO's approval, exclude a supplier or refuse to accept a Bid from a supplier on grounds such as:
  - i. bankruptcy or insolvency;
  - ii. false declarations;
  - iii. significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior Contract;
  - iv. final judgments in respect of serious crimes or other serious offences;
  - v. professional or ethical misconduct or acts or omissions that adversely reflect on the commercial integrity of the supplier;
  - vi. being engaged in a dispute or litigation with the supplier; and
  - vii. prior conduct of supplier that gives the Municipality reasonable grounds to believe it would not be in the best interest of the Municipality, staff, or the public to enter into a Contract with the supplier, including abusive, threatening, intimidating, or harassing conduct.
- (b) A reference to a supplier in this section includes the following: an officer, a director, a majority or controlling shareholder, or a member of the supplier, if a corporation; a partner of the supplier, if a partnership; any corporation to which the supplier is an affiliate of or successor to, or an officer, a director or a majority or controlling shareholder of such corporation; and any person with whom the supplier is not at arm's length within the meaning of the Income Tax Act (Canada).

#### **6.8 Special RFx and Contract Provision – Bruce Energy Centre**

- 6.8.1 Pursuant to an agreement dated August 12, 2012, between The Municipality, Bruce Power and LIUNA the Municipality must only use companies in contractual relations with Laborer's International Union of North America/United Association (LIUNA) when undertaking any construction work relating to the Bruce Energy Center (BEC) sewage treatment plant or water tower. Contractors hired to do any work on these facilities must have a Collective Agreement with LIUNA and use LIUNA or affiliated Industrial, Commercial and Institutional (ICI) associates and use union members for the work.

### **7. Ethical Conduct**

#### **7.1 Employee and Representatives**

- 7.1.1 Anyone involved in procuring Goods or Services for the Municipality must declare any direct or indirect pecuniary or personal interest in a procurement or potential Contract to their Department Head or the CAO. Where it is determined that a conflict of interest exists and that the conflict cannot be managed, such person shall be excluded from involvement with the procurement.
- 7.1.2 Each person involved in any aspect of procurement and contracting on behalf of the Municipality must:
  - a) avoid actual or apparent conflicts of interest in carrying out their duties;
  - b) maintain and practice, to the highest degree possible, business ethics, professional courtesy, and competence in all transactions;
  - c) undertake all purchasing activities without positive or negative bias;
  - d) strive to obtain the maximum value for each dollar of expenditure;

- e) reject offer of favours, gifts, gratuities, loans regardless of the value; and
- f) protect confidential supplier information that is submitted in connection with a procurement process or Contract.

## **7.2 Council Members**

7.2.1 Without limiting Council's authority as the Municipality's governing body, to preserve the integrity of the procurement process, individual members of Council, including the Mayor, must remain at arm's length from staff and suppliers in the procurement process and refrain from either intervening or interfering in the procurement process, the evaluation of Bids, selection of suppliers, or staff recommendations.

7.2.2 Individual members of Council should not receive or review any information or documents related to a particular procurement during the procurement process.

## **7.3 Suppliers**

7.3.1 No supplier or potential supplier shall offer gifts, favours, inducements of any kind to Municipality staff or Council members, or otherwise attempt to influence or interfere with staff and Council members' duties and responsibilities concerning the procurement or management of the procurement process.

7.3.2 Suppliers and their representatives are prohibited from lobbying any member of Council, staff and consultants during the period commencing at the time of issuing a RFx and ending at the time of the award of the Contract.

- a) No supplier may threaten, intimidate, harass, or otherwise interfere with an attempt by any other prospective supplier to bid for a Contract or to perform any Contract awarded by the Municipality.
- b) A violation of the above prohibitions may result in a supplier being declared ineligible to participate in any ongoing or future Municipality procurements.

## **8. Policy Reviews and Amendments**

All changes to this policy require the approval of Council except for changes of an administrative nature, such as the change in title of a position. A formal review of the policy must be undertaken by the Treasurer at least once every five (5) years.

## **9. Related Policies**

N/A

## **10. Related Documents/Legislation**

- a) 'Municipal Act, 2001 The Municipal Act, 2001' Section 270 (1) 3. states that a municipality shall adopt and maintain policies with respect to its procurement of goods and services
- b) 'Canadian Free Trade Agreement' (CFTA) is a Canadian intergovernmental trade agreement signed by Canadian Ministers that entered into force on July 1st, 2017.
- c) 'Comprehensive Economic and Trade Agreement' (CETA) is a free-trade agreement between Canada and the European Union and its member states.

## **SCHEDULE A – EXCLUSIONS**

Contracts for Goods and Services and payment of the expenses listed below are excluded from this policy. If a Contract is excluded from the policy, the policy shall not be construed to cover the acquisition of goods or services through that Contract.

### **(1) General Exclusions**

- (a) Goods or Services financed primarily from donations that require the procurement to be conducted in a manner inconsistent with this policy.
- (b) Procurements by the Municipality on behalf of an entity not covered by this policy.
- (c) Procurements under a commercial agreement between the Municipality which operates sporting or convention facilities and an entity not covered by this policy that contains provisions inconsistent with this policy.
- (d) Acquisition of Goods or Services for the purpose of commercial sale or re-sale by the Municipality.
- (e) Procurement of Goods or Services from philanthropic institutions, non-profit organizations, prison labour, or natural persons with disabilities.
- (f) Procurement of Goods or Services for the specific purpose of providing international assistance, including development aid, provided that the procuring entity does not discriminate on the basis of origin or location within Canada of goods, services, or supplier.

### **(2) Excluded Professional Services**

- (a) Health or social services.
- (b) Services that may, under applicable law, only be provided by licensed lawyers or notaries.
- (c) Services of expert witnesses or factual witnesses used in court or legal proceedings.
- (d) Financial services respecting the management of government financial assets and liabilities (i.e., treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution.

### **(3) Non-Procurement Transactions**

- (a) Employment Contracts.
- (b) Non-legally binding agreements.
- (c) Insurance premiums.
- (d) Payments of debts.
- (e) Procurement or acquisition of fiscal agency or depository services (banking services).
- (f) Any form of financial assistance, such as grants, loans, equity infusions, guarantees, and fiscal incentives.
- (g) Agreements between enterprises that are controlled by or affiliated with the same enterprise, or between one government body or enterprise and another government body or enterprise.
- (h) Acquisition or rental of land, real property payments including land, buildings, leasehold interests, easements, encroachments and licenses, or the like. The landlord's or seller's provision of related services, such as the fit up of premises will also be excluded.

- (i) Management of third-party claims against the Municipality, negotiation of legal settlements and grievance settlements.
- (j) Binding orders, judgments or decisions of an arbitrator, tribunal, or court.  
Given that these payments are mandatory, approval from the Department Head which is funding the payment is required.
- (k) Refundable travel expenses.
- (l) Other Municipality and employee related expenses, such as: memberships in professional organizations (professional dues), staff attendance at seminars, testing or examination fees, workshops, courses, training, trade shows or conferences.