



The Corporation of the City of Sarnia

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# **Procurement of Goods and Services Policy**

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Updated: October 28, 2019

# Procurement of Goods and Services Policy

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## **Procurement Goals and Objectives**

### **Statement**

To establish the most cost-effective methods used to purchase goods and services for all City Departments. To ensure the prices paid for goods and services make optimum use of City resources, without delaying services to the public. To establish the authority of the City Departments as it relates to the procurement policy.

### **Role of Purchasing**

The procurement of goods and services is administered by the Purchasing Manager, under the direction of the Director of Finance for the Corporation to:

- Provide purchasing services and advice to all City Departments;
- Co-ordinate and/or standardize the purchase of similar items by departments in order to optimize discounts available to the City;
- Ensure that the procurement policies are adhered to by departments who have authorized spending limits defined or delegated through this policy;
- Encourage innovation and the use of technology which conforms to City specifications and policy in order to ensure the utilization of the most efficient and effective procurement processes and practices;
- Consider the total cost of ownership where possible.

### **Objectives**

- a) To promote the most cost effective and efficient use of public funds and resources by acquiring the specified goods and services at the optimum quality, quantity, price, delivery and performance.
- b) To encourage fair and open competitive bidding on all acquisition and disposal of goods and services where practical.
- c) Unless otherwise approved by Council, to purchase goods and services only as approved in the operating and capital budgets.
- d) To obtain the most competitive offers from the most responsible and responsive vendors. To use vendors who comply with the provisions of the bid solicitation, including specifications and contractual terms and conditions.
- e) To use vendors who can be expected to provide satisfactory performance based on reputation, references, past experience, and sufficiency of financial and other resources.

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- f) To structure specifications that does not exclude certain vendors or manufacturers unless there is documented evidence to warrant exclusion.
- g) To always consider the “total cost of ownership” rather than the lowest bid. This includes but is not limited to, such factors as repairs, staff training, suitability, compatibility, warranty, trade-in value, recycling and disposal concerns.
- h) To acquire goods and services with regard to preservation of the natural environment. This gives reference to the method of manufacture and the method of disposal.
- i) To delegate the appropriate level of authority to enable City Departments to meet service requirements.
- j) To ensure those employees who are responsible for requisitioning and purchasing of goods and services are accountable for their actions and decisions.
- k) To participate with other publicly funded bodies in co-operative purchasing activities where they are in the best interest of the City.
- l) Maintain a smooth and uninterrupted flow of materials necessary for the continuance and preservation of the essential services provided by the City.
- m) Comply with the Federal and Provincial Acts and laws which apply to Canadian municipalities.

## **Sustainable Purchasing**

When possible, departments shall identify and purchase the most environmentally and socially responsible products and services that are available for the intended purpose, at a competitive price, and that meet the performance requirements. Environmental and social factors that should be considered include, but are not limited to:

- Reduced virgin material in product
- Environmental cost of entire product
- Reuse existing products or materials
- Recyclability of product
- Minimization of packaging
- Durability and maintenance requirements
- Reduce energy consumption

## **Compliance**

City Council, the general public, and business community must have confidence in the integrity of the City's procurement practices. Therefore, it is important that all City employees involved in the purchase of goods and services be completely responsible for their actions.

No purchase of goods and/or services shall be authorized unless, it is in compliance with this policy. Goods and/or services that are obtained without following the provisions of this policy will not be accepted, and any invoices received may not be processed for payment.

All City Departments and staff, City Council members, and Council-Funded Groups are responsible for adhering to the provisions of this policy.

Failure to adhere to the requirements outlined in this Policy may lead to disciplinary action, up to and including termination of employment.

No Provision of this Policy precludes a Department Director or Purchasing Manager, with the concurrence of the Chief Administrative Officer, from recommending an award to City Council where:

- I. In the opinion of a Department Director, it is in the best interest of the City to do so; or
- II. It is a matter of Procurement procedure and, in the opinion of the Purchasing Manager, it is in the best interest of the City to do so.

### **Non-Compliance**

Non-compliance to the Procurement of Goods and Services Policy will require Chief Administrative Officer approval if over \$10,000, and Finance Department approval for less than \$10,000 before payment is processed to suppliers of goods or services. At the discretion of the Chief Administrative Officer, City Council approval may be required.

Repeated and blatant disregard of policies and procedures shall not be tolerated. Continuous Non-compliant actions may lead to disciplinary action up to and including dismissal.

### **Division of Contracts**

No procurement shall be divided to avoid the requirements of the tender, proposal, quotation, or purchasing card procedures. Nor shall purchases be split in order to circumvent prescribed spending authority dollar limits as outlined in this policy.

### **Interference in the Procurement Process**

- a) Elected Councillors, employees, or members of Committees of Council and groups, shall not knowingly cause or permit anything to be done or communicated to anyone in a manner which is likely to cause any potential supplier to have an unfair advantage or disadvantage in obtaining a contract for the supply of goods and/or services to the City.
- b) Elected Councillors, or members of Committees of Council and groups shall separate themselves from the procurement process and have no involvement whatsoever in specific procurements. Elected Councillors or members of Committees of Council shall not see any documents or receive any information related to a particular procurement while the procurement process is ongoing. Elected Councillors who receive inquiries from suppliers related to any specific procurement shall immediately direct those persons making inquiries to the Finance Department or Director of Finance.
- c) If an Elected Councillor, employee or member of Committees of Council and groups, fail to comply with this provision, they must be removed from the awarding process, and the vendor in question will be disqualified.

### **Conflict of Interest**

- a) No elected official, or employee of the City shall have any pecuniary or controlling interest, either direct or indirect, in any competitive bid or contract for the supply of goods or services to the City, unless such pecuniary interest is disclosed by the Proponent, bidder, or person



submitting a bid, as the case may be, or unless such pecuniary interest would be exempt under the *Municipal Conflict of Interest Act*.

- b) Formal competitive bid documents shall include a section that requires disclosure prior to submission of the bid. Should a conflict of interest arise after the award of a contract, the conflict shall immediately be disclosed in writing to the Purchasing Manager. Further, all competitive bid documents and agreements shall provide that in the event that a contract is awarded to a person who has not, during the bidding or contracting process, disclosed the pecuniary interest of an elected official or team member of the City in the contract, the contract may be cancelled at any time by the City in its entire discretion.

## **Accountability**

- a) City Officials and employees shall disqualify themselves from the bid evaluation and procurement decision process if they have personal interest in a bid competition. They shall also comply with the requirements of the Municipal Conflict of Interest Act and/or this policy.
- b) To avoid compromising a consultant's objectivity towards work performance and compliance with the requirements and specifications of the project, consultants shall not be allowed to participate in bid competitions where they were retained by the City for the preparation of the bid document unless approved by the Chief Administrative Officer.

## **Accessibility**

To ensure the fair and open compliance to the Integrated Accessibility Standard Regulation under the Accessibility for Ontarians with Disabilities Act, the following considerations must be considered for all levels of procurement. This is to ensure no architectural, physical, communication, or attitudinal barriers exist that would prevent a member of the public from participating fully as a member of society.

- Purchasing and Department staff involved in the development of quote and tender documents are to identify whether there are accessibility requirements which should be part of the procurement process. If required, it may be necessary to consult with external advisors if accessibility needs are unclear for the procurement required.
- If accessibility requirements are found, such requirements must be clearly stated in the request for quote or tender to meet the required legislations.
- Accessibility criteria must be considered throughout the procurement process. Suppliers, contractors, and/or manufacturers should be asked

to identify features of their product or services which meet the relevant accessibility standards.

- Accessibility criteria, where included in the procurement process, should be given appropriate consideration and weighting during the scoring and evaluation stages of a procurement process.

### **Ethical Standards**

The following work conduct standards shall apply to all City Officials and employees involved in the selection and procurement of goods and services:

- a) Open and honest dealings with all parties involved in the procurement process, including vendors and contractors with which the City does business, as well as members of City staff who obtain the services of Purchasing personnel.
- b) Fair, impartial and equal treatment of all qualified vendors and contractors, including unbiased evaluation of the compliant bids.
- c) Avoid and remove the appearance or perception of favouritism and special privileges given to vendors and contractors.
- d) Adherence to legal, ethical, and moral responsibilities expected of municipal employees and committee members.
- e) Settlement of disputes without discrimination and prejudice.
- f) Irreproachable standard of integrity on the part of all personnel involved in conducting business on behalf of the City. This includes avoidance of receiving and dispensing of personal favours and gratuities in return for business opportunities.
- g) Ongoing development of purchasing knowledge and skills to keep abreast with the changing market place.
- h) Eliminate participation of any individual in situations where the appearance of conflict of interest may be present.
- i) Discrimination of a vendor or vendor staff based on the prohibited grounds of the Ontario Human Rights Code shall not be permitted.

## **Procurement of Goods and Services Guidelines**

### **Ascertainment of Need**

It is the Department's responsibility to ascertain the necessity of the goods and services requested by staff. The department heads are also responsible and accountable for ensuring the availability of adequate funds in the budget approved by City Council, or from an appropriate financial reserve, prior to proceeding with the procurement.

### **Procurement Process**

Goods and services required by City Departments and Committees of Council shall be requested to the Purchasing team. For formal bidding this is a discussion with Purchasing on the requirements for the bid to be developed.

If the process is informal an electronic Purchase Requisition is to be completed by the procuring department to initiate the purchase process and required approvals.

### **Methods of Procurement**

Where the required product or service can be specified (and such goods and services are not stocked in the central stores or covered by a blanket purchase order), it shall be acquired by Purchase Order.

#### **a) One Time Purchase Order**

One Time Purchase Order is acceptable unless a blanket order is available for that supplier. This can be requested by providing a Purchase Requisition to the Purchasing Department.

Direct acquisition is acceptable through use of a Procurement Card to those members provided with the higher level of approval as set by the Finance Department and the Director of Finance or designate.

#### **b) Informal Quoting**

The initiating Department, in consultation with the Finance Department, must obtain a minimum of three (3) written quotations, where appropriate. Formal Requests for Quotations shall be issued by the Finance Department, if requested.

#### **c) Formal Procurement**

The Purchasing team, in consultation with the initiating Department Representative, shall issue a form Request for Quotation, Request for Tender or Request for Proposal for approved projects based on defined requirements (specifications are available to readily compare products).

Each sealed bid received in response to a formal bid request is reviewed to determine whether a bid irregularity exists. Action is taken according to the nature of the irregularity.

A report shall be prepared for Council consideration and approval, as required.

### **Standing Supply Agreements**

To maintain day-to-day operations, the Purchasing team maintains standing supply agreements for goods and/or services. These agreements are based on as per unit or per hour rate, resulting in the overall value of the agreement to be unknown.

### **Limiting Tendering**

All limited tendering activity must comply with the required Provincial and Federal Legislation.

### **Sole Source Vendors**

All Sole Source Vendors must have a sole source justification document completed and approved by the required staff members.

An annual review of Sole Source Vendors is required to ensure the requirement is still needed, and investigate whether the market for a selected vendor has not changed to a competitive market.

An annual Non-Agenda report to City Council is required stating all Sole Source Vendors and any changes that have been made.

### **Single Source Vendors**

Single Sourcing varies from Sole Source as more than one source is available, but a single source is desirable.

In this case, if the proposed project value is over \$10,000 to a maximum of \$100,000, a public Notice of Intent detailing the following is required:

- Description of project
- Who is being singled sourced
- Estimated value of project

### **Co-operative Procurement Availability**

The City of Sarnia may participate with other government agencies in co-operative purchasing where it is in the best interests of the City to do so.

The individual policies of the government agencies or public authorities participating in the competitive bid are to be the accepted by-law for that particular competitive bid.

### **Form of Contract**

All awards shall require the issuance of a Purchase Order.

An award may require a formal written agreement in addition to a Purchase Order.

A Purchase Order may be used alone when the resulting award is straightforward and will refer to the Corporation's standard terms and conditions.

A formal written agreement satisfactory to the Director of Legal Services shall be used when the resulting Contract is complex or is a result of negotiation.

### **Prescribed Council Approval**

Notwithstanding any other provision of this Policy, the following awards require Council approval:

1. The recommended Award exceeds the amount budgeted for the Purchase;
2. The authority to Award has not been expressly delegated to staff of the Corporation; and
3. The recommended Award does not provide the best overall value.

### **Document Execution Authority**

Employees or officers of the Corporation identified in the table below shall have the authority to execute Contracts and all other documents necessary to effect the award or purchase of goods and/or services, up to the prescribed limits, provided that the documents have been prepared in a form satisfactory to the Director of Legal Services and that the award or purchase complies with this Policy.

All executed agreements must have been included in the budget process. Items outside of the current approved budget will require Council approval.

The approval of Purchase Orders shall be completed by the Director of Finance or Designate.

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## *Purchasing and Execution Authority*

<b>Method of Purchase</b>	<b>Dollar Value</b>	<b>Purchasing Authority</b>	<b>Contract Execution Authority</b>	<b>Payment Release Authority</b>
<b>P-Card</b>	\$2,500	Card Holder	n/a	Department Manager, Superintendent or Supervisor
<b>Low Dollar Value Purchase</b>	\$0 to \$10,000	*Department Manager/ Supervisor or Authorized Team Member	n/a	Department Manager, Superintendent or Supervisor
<b>Informal Quotation</b>	\$10,000 to \$50,000	*Department Manager/ Supervisor	*Department Director/ Department Supervisor	Department Manager, Superintendent or Supervisor
<b>Formal Process</b>	Greater than \$50,000 to \$100,000	Department Director	Department Director and Clerk	Department Manager, Superintendent or Supervisor
<b>Formal Process</b>	Greater than \$100,000 to \$250,000	Department Director	CAO and Clerk	Department Manager
<b>Formal Process</b>	Greater than \$250,000	Council	Mayor and Clerk	Department Director

\*Value of Authority shall be as directed by Department Director.

The Storeskeeper's role is to order routine supplies for use by operating departments. As required, the Storeskeeper shall provide payment release authority as part of the inventory management process of goods.

## **Reporting**

A monthly Non-Agenda information report is to be forwarded to Council providing the award history from the previous month of awards greater than \$100,000.

## **Emergency Circumstances**

Purchases that are required to respond to emergency circumstances shall be in accordance with the levels prescribed for Purchasing and Execution Authority. All Emergency purchases over \$10,000 are to be reported to the CAO and a copy of the required forms forwarded to Finance the following business day.

As soon as possible, the Department Director or designate initiating the Emergency purchase must seek the approval of the funds required to pay for the Purchase from the Director of Finance or Accounting and Budgeting Manager. This may require additional funds to be approved by Council in accordance with the Budget Policy.

## **Goods and Services Exempt from Procurement Process**

The items listed below are excluded, and may be paid without purchase orders and receiving reports. Please note, that although purchase orders are not required, competitive systems may still be utilized at the discretion of the department that requires the goods or services.

### **1. Training and Education including:**

- a. Conferences
- b. Courses
- c. Conventions
- d. Subscriptions
- e. Memberships
- f. Periodicals
- g. Seminars
- h. Staff Training and Development
- i. Staff Workshops
- j. Staff Relations

### **2. Employee Expenses including:**

- a. Clothing/Safety Boot Allowance
- b. Meal Allowances
- c. Travel Expenses
- d. Accommodations

### **3. Employer's General Expenses including:**

- a. Employee Benefits
- b. Payroll Deduction Remittances
- c. Medicals
- d. Insurance Premiums
- e. Debenture Payments

- f. Charges to/from Municipal Grants, other governments or Crown Corporations

**4. Licences, Certificates including:**

- a. Vehicle Licences
- b. Elevator Licences
- c. Radio Licences

**5. Professional and Special Services:**

- a. Legal Services
- b. Banking Services where covered by agreements
- c. Financial Audit Services
- d. Contract employees
- e. Rental, lease, purchase and sale of property, land/or accommodations
- f. Honoraria
- g. Arbitrators
- h. Legal Settlements
- i. Insurance Adjuster
- j. Surveying Services
- k. Property Taxation Services

**6. Utilities and Related Expenses:**

- a. Natural Gas
- b. Hydro Electricity
- c. Water and Sewer
- d. Telephony Service
- e. Postage
- f. Cable Television
- g. Internet Service

## **Bid Processing**

### **Equal Submissions (Tie Breaker)**

To avoid any perception of unfairness and arbitrary decisions, a tie breaker rule shall be in place. If there is a suspicion of collusion among bidders, a NO BID AWARD shall be declared, and a revised bid competition issued. If there is no appearance of collusion and all factors are equal, including location of business, bid submission time and date will be the determining factor.

### **Bid Irregularities**

Bid irregularities shall be dealt with according to "Appendix A - Competitive Bidding Policies".



### **Only One Bid Received**

- a) In the event only one bid is received in response to a competitive bid, and when in the opinion of the Purchasing Manager and Department Director, using criteria based on the number of bids which might reasonably be expected on a given type of bid and additional bids could be secured, the process can be restarted. The Purchasing Manager shall inform the bidder that the City may be re-issuing the competitive bid at a later date.
- b) In the event that only one bid is received in response to a request for a competitive bid, the bid may be opened and evaluated in accordance with the City's usual procedures when, in the opinion of the Purchasing Manager and Department Director or designate, the bid should be considered by the City:
  - i. If, after evaluation by the evaluation team, the bid is found not to be acceptable, they may provide a notice of rejection, meeting the terms of the bid and Policy;
  - ii. In the event that the bid received is found acceptable, it will be awarded as per the required approving levels of this Policy.

### **Exclusion of Bidders Due to Poor Performance**

- a) The City may, in consultation with the City Solicitor, prohibit unsatisfactory suppliers and contractors from bidding on any future competitive bids for a time period appropriate with the performance issue and contract terms.
- b) Suppliers may also be prohibited from bidding on any future contracts if they maintain officers, Managing Directors, or employees who are also employees of suppliers who have already been prohibited from bidding based on the results of the performance issue.

### **Exclusion of Bidders in Litigation and Disputes**

- a) The City may, in its absolute sole discretion, reject a bid submitted if the bidder, or any officer of the bidder, is or has been engaged in either directly or indirectly through another Corporation or personally, legal action against the City, its elected or appointed officers and employees in relation to:
  - i. Any other contract or service; or
  - ii. Any matter arising from the City's exercise of its powers, duties or functions; or
  - iii. A dispute and/or an appeal of contract awards.

- b) In determining whether or not to reject a bid under this clause, the City will consider whether the litigation is likely to affect the bidder's ability to work with the City, its consultants and representatives, and whether the City's experience with the bidder indicates that the City is likely to incur increased staff and legal costs in the administration of the contract if it is awarded to the bidder.

### **Disposal of Surplus Materials and Equipment**

Declaration of surplus items shall be provided to the Finance Department for disposal according to the Procurement Policy. This is done to ensure the best value for the City of Sarnia is achieved and maintain fair and open practice.

#### **Methods of Disposal**

- Items may be declared as scrap
- Transfer of equipment to another department
- Donate to a non-profit/charitable organization
- Trade in, or when possible, return to originating supplier
- Online Fixed Price Public Sale
- Public Sealed Bids
- Public Auction

## **Appendix A - Competitive Bidding Policies**

### **Invitation to Bid/Solicitation of Bids**

The release or issue of bid documents shall be done by the Purchasing section of the Finance Department. Each bid competition shall include a description of what is required by way of technical and functional specifications or scope of work.

Formal bid opportunities (Tender, Request for Quotation, Request for Proposals) shall be posted for a reasonable time prior to the closing date for receiving bids or longer, as required by current legislation and agreements.

### ***Bidders Disclosure***

Bidders must disclose any possibility of conflict of interest.

### ***Contact***

There shall be no informal contact made between a Bidder and City Officials or Employees after the issue of the bid competition.

All questions and answers shall be made in writing.

### ***Receipt of Bids***

All formal bids must be sealed and delivered to the designated location no later than the closing date and time for receiving bids.

### ***Evaluation and Selection***

Each formal bid document shall include a description of the bid evaluation criteria. See "Appendix B, Schedule 1: Bid Evaluation Process".

### **Bid Irregularities**

Bid Irregularities and protests shall be dealt with according to "Appendix B, Schedule 2: Treatment of Bid Irregularities".

### **Tender Award Report**

Bidders are identified in the award recommendation as follows:

- For each bid not rejected due to irregularities, the bidder is listed with the bid amount.

## **Appendix B - Bid Evaluation/Treatment of Irregularities**

### **Schedule 1: Bid Evaluation Process**

The objective of this section is to describe the criteria in the selection of a bidder with which the City of Sarnia Finance Department would:

- a) Enter into a contract for the goods and services identified in the Invitation to Bid (RFQ, RFP, Tender); or
- b) Commence the negotiation process for a contract; or
- c) Recommend, for Sarnia City Council's consideration, the acceptance of the bid submission as required.

The following process would apply:

- a) Scrutiny of the bid submissions relative to compliance with the mandatory requirements of the RFQ, RFP, or Tender, such as submission of all specified forms and schedules meeting technical specifications, including adherence to items where "No Substitutes" are allowed, and agreements with the City's general Terms and Conditions.
- b) Elimination of bids not meeting the fundamental requirements stated above, as well as elimination of bids not received on time.
- c) Elimination of bids from contractors and vendors where that contractor, vendor, or its principals, have been, or currently are, involved in litigation or dispute with the City of Sarnia, except where that litigation does not impact upon the ability of the parties to further engage in reasonable business relations.
- d) Evaluation of the merits of all compliant bids. The evaluation will consider financial and technical merits; vendor/contractor reputation based on past performance with the City and with others, initial costs, on-going maintenance costs, and overall cost effectiveness over the long term.

## Schedule 2: Treatment of Bid Irregularities

Each bid received in response to a formal Invitation to Bid (Tender, RFQ or RFP) is reviewed to determine whether irregularity exists, and action is taken accordingly, as follows:

### *Major Irregularities*

Type	Action Taken
<b>Late Bids</b>	Automatic Rejection
<b>Faxed and E-mailed tenders Quotations or Proposals</b>	Automatic Rejection
<b>Qualified Bids (bids which are qualified, restricted or conditional by a statement from the bidder)</b>	Automatic Rejection
<b>Failure to submit the specified Bid Securities when required</b>	Automatic Rejection
<b>Bids not meeting specifications</b>	Automatic Rejection
<b>Submissions on forms other than the City's official form of Tender, Quotation or Proposal</b>	Automatic Rejection
<b>Submissions over-riding the terms and conditions set out in the bid document and Addenda</b>	Automatic Rejection
<b>Unsigned Bids</b>	Automatic Rejection
<b>Bids Submitted in an erasable medium</b>	Automatic Rejection
<b>Unit prices changed, but not initialled, and the total is inconsistent with the unit price as changed</b>	Automatic Rejection
<b>Failure to acknowledge any and all Addenda issued for each tender, quotation or proposal on the forms provided.</b>	Automatic Rejection
<b>Mistake in submission not obvious on the face of the submission</b>	No relief
<b>Erasures, strike-outs or over-writing which are not initialled</b>	To be reviewed and decision made based on the magnitude of the issue – with 48 hours to initial

## **Appendix C - Vendor Eligibility**

Without limiting or restricting any other right or privilege of the City and regardless of whether or not a Bid otherwise satisfies the requirements of a RFP, RFT, or RFQ, the City may reject any Bid from a vendor where:

- a) The vendor is involved in any type of litigation with the City.
- b) The failure of the vendor to pay, in full, all outstanding payments (and maintain in good standing) any costs owing to the City by such vendor after the City has made demand for payment. The City shall have the right to recover outstanding payments by way of reduced payment of invoices.
- c) The vendor's refusal to enter into a contract with the City after the vendor's Bid has been accepted by the City.
- d) Documented poor performance of a vendor, including the vendor's refusal to perform or to complete performance of a Contract with the City.
- e) The vendor having unlawfully or unreasonably threatened, intimidated, harassed, or interfered with an attempt by any other possible vendor to bid for a City Contract.
- f) The vendor having communicated or discussed, directly or indirectly with an elected member of Council or Council Funded Group during the procurement process.
- g) The vendor having unlawfully or unreasonably threatened, intimidated, harassed, assaulted against or otherwise interfered with a member of City staff representative, Manager or consultant.
- h) The vendor has, on one or more occasions, in the performance of a Contract with the City, deliberately or negligently, save and except an inadvertent error corrected to the satisfaction of the City within a reasonable time, as determined by the City, including but not limited to:
  - i. Over-billed, double billed and/or retained a known over-payment or has failed to notify the City of an over-payment or duplicate payment;
  - ii. Billed for items not supplied;
  - iii. Billed for items of one grade/quality/size, while supplying items of an inferior grade/quality/size;
  - iv. Submitted false or misleading information to the City;
  - v. Acted in conflict with the City's interests;
  - vi. Misappropriated any property or right of the City in any form;
  - vii. Committed any other form of sharp or deceptive practice.

## Procurement of Goods and Services Policy

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Updated: October 28, 2019

If, in the opinion of the City and Council, there are reasonable grounds to believe that it would not be in the best interests of the City to enter into a contract with the vendor the next vendor would engaged for a contract for goods or services.

Reasons can include, but are not limited to:

- a) The vendor, or any person with whom that vendor is not at arm's length within the meaning of the Income Tax Act, is guilty of an offence under any taxation statute in Canada.
- b) The conviction or finding of liability of that vendor under the Criminal Code or other legislation or law, whether in Canada or elsewhere.
- c) The conviction or finding of liability of that vendor relating to product liability or occupational health and/or safety.

## **Appendix D - Definitions**

The words and phrases listed below, when used towards the City of Sarnia's procurement of goods and services, shall have the following meaning:

<b>Word or Phrase</b>	<b>Description</b>
<b>Acquisition</b>	The process used for obtaining goods and services.
<b>Addenda</b>	A notice of change and/or revision to the original bid, i.e. change of dates, change of quantity (ies), change of specifications.
<b>Agreement</b>	A formal written legal agreement or contract for the supply of goods or services.
<b>Approval</b>	Authorization to proceed with the purchase or disposal of goods and/or services.
<b>Authority or Authorized</b>	The legal right to conduct and enforce the tasks listed in the Procurement Policy.
<b>Award</b>	The acceptance of a compliant bid towards the purchase of goods and services.
<b>Bid</b>	An offer or submission of a vendor or contractor in response to a bid competition
<b>Bid Competition</b>	Requests for Quotation, Proposal or Tender issued by the City.
<b>Bid Deposit</b>	Currencies, certified cheques, bond surety, issued by a surety company or other form of negotiable instrument to ensure the successful bidder will enter into an agreement.
<b>Bid Irregularity</b>	A deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid process.
<b>Bid Request</b>	A written request for bids or a solicitation.
<b>Blanket Order</b>	A purchase order which establishes prices or a method for determining prices, terms and conditions and the period of time during which a vendor agrees to provide goods and services to the purchaser upon the purchaser's demand.
<b>Central Stores</b>	The location of inventory goods stored for regular use of staff.
<b>City</b>	City of Sarnia
<b>Chief Administrative Officer (CAO)</b>	The Chief Administrative Officer of the City of Sarnia.



## Procurement of Goods and Services Policy

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<b>Word or Phrase</b>	<b>Description</b>
<b>Director of Finance</b>	The Chief Financial Officer of the City of Sarnia.
<b>Consultant</b>	A person or firm who, by virtue of a particular expertise, is hired by the City to undertake specific tasks which may include preparation of designs and specifications towards the issue of competitive bids for a City project.
<b>Conflict of Interest</b>	Refers to a situation in which private interests or personal considerations may affect an employee's judgement in acting in the best interest of the City of Sarnia. It includes using an employee's position, confidential information or corporate time, materials or facilities for private gain or advancement or expectation of private gain or advancement.
<b>Contract</b>	Means a legally binding agreement between two or more parties, which may be in the form of a Purchase Order, Purchase Order incorporating a formal agreement or Formal Agreement.
<b>Corporation</b>	The Corporation of the City of Sarnia
<b>Council</b>	The Municipal Council of the City of Sarnia
<b>Department</b>	An organizational and policy unit of the City
<b>Department Head / Director</b>	The senior staff person authorized by the Chief Administrative Officer and Department Heads to act on their behalf.
<b>Designate</b>	The member of staff authorized by the Chief Administrative Officer and Department Heads to act on their behalf.
<b>Disposal</b>	The removal of materials owned by the City by means outlined in the policy.
<b>Emergency</b>	A situation where the purchase of goods and/or services requires immediate action to prevent or correct dangerous or potentially dangerous safety conditions, further damage, to restore minimum service or ensure the safety of the public.
<b>Execute</b>	Legally bind the City to the terms and conditions defined within the Purchase Order or Agreement.
<b>Goods</b>	All supplies, materials, fixtures and equipment which are required by the various City Departments to carry out their daily operations.

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<b>Word or Phrase</b>	<b>Description</b>
<b>Performance Bond</b>	The form of surety which entitles the City to be indemnified up to the amount stated on the bond for any loss caused by a contractor's default or non-performance.
<b>Policy</b>	A statement which describes, in general terms an intended course of action.
<b>Procedures</b>	Detailed guidelines related to routine activities necessary to fulfil the procurement policies and objectives.
<b>Proposal</b>	An offer to furnish goods and services in exchange for a specified amount of money.
<b>Procure/Procurement/ Purchase</b>	Acquire by purchase, rental or lease of goods and/or services.
<b>Professional and Consulting Services</b>	Including Architects, auditors, engineers, designers, planners, surveyors, management and financial consultants, brokers, legal services, and any other professional and consulting services rendered on behalf of the City.
<b>Purchase Order</b>	A written request in a standard format, initiated by a City Department, towards the acquisition of goods and services, for which budget approval has been granted and sent to the Purchase Manager for action.
<b>Purchasing Manager</b>	The member of Staff with the authority to act as the official Manager for the City of Sarnia towards the procurement of goods and services.
<b>Quotation</b>	An offer to provide goods and services meeting technical and functional specifications at a set price in response to a bid competition.
<b>Responsive and Responsible Vendor</b>	One who complies with the provisions of the bid solicitation, 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.
<b>Services</b>	All services pertaining to repairs, maintenance, construction, installation, restoration, renovation, upgrade, design, delivery, removal or demolition of tangible and real property. Services also include any type of work except those done by the officers and employees of the City.

## Procurement of Goods and Services Policy

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<b>Word or Phrase</b>	<b>Description</b>
<b>Single Source</b>	There is more than one source in the open market but for reasons of function or service, only one vendor is recommended for consideration of the particular goods and/or services.
<b>Sole Source</b>	There is only one source in the open market limiting the options for procuring the goods or services required.
<b>Specifications</b>	Detailed or precise technical and functional description of the required goods and services.
<b>Supplier</b>	Any individual or organization providing goods or services to the City including but not limited to contractors, consultants, vendors, service organizations, etc.
<b>Surety</b>	A form of insurance that provides a written guarantee that a contract will be completed as specified and there will be a satisfactory settlement of any claim against the contract.
<b>Tender</b>	A formal offer received from a supplier of goods and/or services in response to a public advertising of a bid competition based on precisely defined specifications. Tenders are sealed in an envelope and opened in public, the results of which are forwarded to City Council for consideration.
<b>Verbal Quotation</b>	Pricing received via telephone or in person. Verbal quotes shall be recorded in writing on the requisition.

## **Appendix E - Discipline of Contractors/Vendors**

### **Purpose**

To provide for a discipline process allowing The Corporation of the City of Sarnia to restrict contractors/vendors when and where required.

### **Description**

To share information throughout all municipal departments to have a consistent approach for managing contracts for work performed by independently hired contractors by:

- a) Meeting the terms and conditions of Tenders, Quotations, or Request for Proposals;
- b) Respecting completion dates;
- c) Disciplinary action taken when warranted;
- d) Intended products and/or service are efficiently and effectively delivered.

### **Types of Disciplinary Action**

Disciplinary measures may include, but are not limited to restriction on:

- a) The type of work which can be submitted by the Contractor/Vendor;
- b) The number of contracts that can be awarded until satisfactory completion of existing contracts;
- c) Dollar value of bids that may be accepted by the Corporation on behalf of the contractor;
- d) Contractor being barred from bidding for varying periods of time (minimum of one (1) year).

### **Conditions Necessary for Discipline or Barring of Contractors/Vendors**

Discipline or barring may be considered, but is not limited to under the following conditions:

- a) Performing work unsatisfactorily;
- b) Failure to meet completion dates, failure to follow instructions, etc.;
- c) Failure to comply with health and safety requirements;
- d) Failure to maintain and keep in good standing all governing bodies licences or approvals;
- e) Failure to maintain in good standing the required WSIB Clearance and Liability Insurance requirements as set out in the bid documents for which they have been awarded;
- f) Withdrawing from a Tender after the contract was awarded;

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g) Failure to comply with the Terms and/or conditions of the contract.

Where a situation or problem has been identified with a contractor, the department manager or designate shall take action to immediately correct the situation. The action should be a verbal warning with a notation made to the respective file, and progress with written warning, a copy of which shall be provided to the Purchasing Department.

The Project Manager is to notify the Contractor in writing and schedule a meeting between the Contractor and Vendor, manager or designate and the Purchasing Manager (or designate) to discuss the situation. The Contractor/Vendor are given a clear statement of the corrective action required and date for compliance (if applicable). The meeting is documented and filed.

Should the Contractor/Vendor performance or situation not improve, the Department Manager shall send the Contractor a written warning advising that future unsatisfactory performance will result in immediate action(s) such as those listed under this policy. The Purchasing team is to be notified when a bidder is ineligible to continue to provide goods and/or services on a current contract or participate on future city contracts.

If the situation hasn't been rectified after the written notice, a final letter, after consultation with the Purchasing Manager, will be forwarded to the Contractor by the Managing Department, advising the Contractor of the action(s) being taken by the Corporation.

The evaluation and determination of the discipline process performed by Management of the Corporation of the City of Sarnia shall be final.

## **Appendix F - Procurement Card**

### **General Information**

Departmentally approved team members will be issued Procurement Cards (P-Card) for the purchase of low dollar value goods and services to support departmental requirements.

The P-Card is not to be considered an entitlement or reflective of title or position in the Corporation. The P-Card may also be revoked based on change in organization strategy or team member's position, and compliance with the overall Procurement Policy.

Any use of the P-Card program shall be done in accordance with all aspects of the Procurement Policy.

The P-Card program will be administered by the Finance Department. All transactions completed using P-Cards can be subject to internal or external audits to ensure compliance with the Procurement Policy. Non-compliances found will be reported to the Director of Finance and the associated Department Manager for required corrective action.

A P-Card will be issued to the team members only once the P-Card Administrator has received a signed Cardholder Agreement which outlines the team member responsibilities and restrictions regarding use and report of P-Card purchases.

All issued P-Cards will have a predetermined credit limit, and single transaction limit pending the roles and responsibilities of the team member. Spending limits and single transaction limits will be set by the Program Administrator, with consultation from the Director of Finance.

All cards will be blocked from certain transactions based on requirements of the team member. All cash advances will be blocked. Commodities approved for use to card holders will be provided when card is issued.

Permanent employment status is required to obtain a P-Card. Students, contractors or consultants will not be considered eligible for participation in the P-Card program.

The card holder's department Director is responsible for notifying the P-Card Administrator upon any change in the card holder's employment status. This includes, but is not limited to, layoff, termination, leave of absence, and long term disability.

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The Corporation of the City of Sarnia assumes liability for all authorized charges on the P-Cards, not the individual cardholder. Misuse and/or failure to meet card holder responsibilities may result in cancellation or suspension of the P-Card and furthermore, may result in disciplinary action up to and including termination.

Procurement Card Program Administrator shall be as appointed by the Director of Finance.

## **Card Holder Responsibilities**

Card holders will be responsible for providing a transaction report and provide receipts of all transactions detailing the itemized purchases, at the end of each month, detailing the proper General Ledger accounts to be charged for each transaction.

If receipts have been misplaced by the cardholder, it is the responsibility of the card holder to contact the vendor to receive a copy of the receipt to allow for reconciliation of the P-Card account.

P-Cards are user specific; therefore, no team member shall purchase an item using a card issued to another team member. Delegation of authority is not permitted in making transactions.

All refunds and credits must be applied to the original P-Card. Cardholders are not permitted to accept a gift card or prepaid vendor card as refund or credit.

Transactions are not to be split, or stringed to allow purchases below the single transaction limit, which circumvent the delegated authority levels set in the P-Card program.

## **Unacceptable Use**

- Goods or services that are directed for personal use;
- Purchases exceeding the single transaction limit of the P-Card;
- Computer software, hardware or telecommunication equipment (i.e. cell phones, pagers etc.) unless approved for use by the Information Technology team;
- Hospitality/entertainment (exceptions as approved by Department Director or CAO);
- Ammunition/Firearms;
- Alcoholic beverages or drugs;
- Cash Advances/Money Orders/Wire Transfers;
- Legal Services;
- Gift Certificates (exceptions as approved by CAO);
- Hazardous materials.

Failure to abide by these limitations will result in the revocation of P-Card privileges.

### **Payment and Reconciliation of Card Holder Account**

Cardholders are responsible for the completeness of the cardholder statement and reviewing and approving transactions.

The cardholder shall be required to complete the Statement of P-Card Purchase Summary and attach all receipts listed in the summary for approval and review with the monthly account statement. Any discrepancies shall be handled by the cardholder. It is the responsibility of the cardholder to contact the supplier to resolve the concern.



## **Appendix G - Lease Financing**

### **Policy Statement**

To establish a corporate leasing policy that applies to all City Departments and related boards in accordance with Ontario Regulation 635/05 made under the *Municipal Act 2001*.

### **Purpose**

The purpose of this policy is to provide guidance to staff when contemplating Lease Financing Agreements for the provision of goods, services, or facilities.

Lease financing agreements may be preferred to outright purchase and/or debt financing. The City may enter into Lease Financing Agreements in order to acquire the rights to use facilities or equipment, including some or all of the benefits and risks of ownership for specific periods of time, and stipulated rental payments.

### **Scope**

1. The leasing provision sets out detailed requirements for standardized lease terms, disclosure, and other reporting and approval requirements for which the Director of Finance will be responsible;
2. The regulation provides for varied levels of reporting and analysis of leases based on levels of materiality;
3. Rental Agreements are considered a form of lease financing and fall under the procedures outlined in this Lease Financing Policy.

### **Requirements**

1. It is the responsibility of all departments to ensure that they involve the Director of Finance in all leasing transactions;
2. It is the responsibility of the Director of Finance to ensure that due diligence, as set out in provincial regulations, occurs in all such transactions;
3. It is the responsibility of the Director of Finance to report to City Council on lease financing arrangements that are deemed material and impact the debt and financial obligation authority as set out in the Procurement Policy.

### **Procedures**

In the event that the City of Sarnia enters into leasing transactions, the following approach will be taken:

1. Any lease agreement where the sum of all payments is less than \$100,000 is deemed to be non-material.

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- 1.1. A non-material lease will still need to be submitted to the Director of Finance by other departments to be reviewed and approved;
  - 1.2. The Director of Finance is not required to undertake a detailed financial and legal analysis of the lease.
2. Any lease agreement where the sum of all payments is above \$100,000 will be treated as material. In these instances, an internal detailed financial and legal review will be conducted, including a buy versus lease analysis, and report to City Council for approval.
3. Any lease agreement where the sum of all payments is equal to or greater than \$100,000 will be treated as material and will warrant additional review in the form of independent external financial and legal advice. As external advice will entail a state cost to the City, these agreements will be review on a case by case basis taking into account the complexity of the agreement as well as all other risks associated with the lease.
4. The Corporate lease approval form is to be used for each lease.
5. All agreements must be approved by the required authority and Finance before signing.

**Corporate Lease Approval Form**

**Lease General Information**

<b>Description</b>	<b>Information Required</b>
<b>Department</b>	
<b>Lease Description</b>	
<b>Term of Lease</b>	
<b>Payments made (i.e. monthly / annually)</b>	

**Type of Lease**

<b>Select one of the following:</b>	<b>Lease Description</b>
	Non-material (sum of all payments is less than \$100,000)
	Material (sum of all payments is greater than \$100,000)
	Material (sum of all payments exceeds \$1,000,000)

**Authorizations**

<b>Role</b>	<b>Signature</b>
<b>Department Head</b>	
<b>City Solicitor</b>	
<b>Director of Finance</b>	

## **Appendix H - Capital Expenditure Control**

### **Scope**

This provision applies to all awarded capital project contracts.

### **Responsibility**

It is the responsibility of the Department Director responsible for the capital work, to ensure that the financial status of capital projects is reviewed on an ongoing basis, and to implement the requirements of this policy.

### **Contingency**

Where, due to the type of capital project, there exists the potential for uncontrollable circumstances or events to occur, departments may recommend that a contingency amount be included in the project estimates to recognize the specific risks.

Contingency amounts shall be calculated at 10% of the overall project estimate.

In special or unusual circumstances recommended by a Department Director and approved by the CAO, a contingency in excess of 10% may be approved in accordance with level of Purchasing Authority.

### ***Notification***

If a contingency is being applied to a project, it must be identified at time of award and be included in the total amount approved and be within budget funds available.

### ***Use of Contingency***

The contingency amount:

1. Cannot be used to expand the scope of a project or to fund an item excluded at the time of the original award;
2. Must be tied to the specific project identified upon award.

### **Over Budget and Unbudgeted Projects**

For unbudgeted projects and where a project will be over budget, departments must take the following steps to mitigate the financial impact:

1. Scale back the scope of the project to come within budget (applies to budgeted projects only);
2. Cancel another current or prior year capital project with the same funding source;
3. Cancel the project, close the capital account and resubmit the project for the subsequent year's budget/long range capital plan.

Under budget amounts from previously awarded capital projects and/or the operating budget are not eligible funding sources.

### **Expenditures Exceeding Approved Budget Funding**

If it becomes evident that a capital project will exceed the approved budget funding, the Department Director is required to:

1. Submit a detailed Preliminary Report to Council for approval of the additional expenditure and funding:
  - a) The report should be completed prior to incurring the over expenditure or at the earliest opportunity subsequent to the over expenditure;
2. Once the project is completed a detailed Final report is to be submitted to Council:
  - a) The Final report is to outline the following items at a minimum:
    - i. Approved Budget for the Project
    - ii. Amount of the awarded Contract
    - iii. Overall cost of the completed project
    - iv. The amount of and the reasons for the over budget situation
    - v. Source of financing for the over budget amount

## **Appendix I - Procurement Protest Procedure**

### **Purpose**

*Article 518* of the Canadian Free Trade Agreement requires government agencies engaged in Procurement activities to provide a timely, effective, transparent and non-discriminatory administrative or judicial review procedure through which a Canadian supplier may challenge a decision.

The purpose of this procedure is to allow the City to handle a compliant in an organized, consistent manner, and to carry out the analysis and reporting requirements in order to improve its bid processes.

### **Procedure Statement**

The City is committed to following open, fair and transparent Procurement processes and in doing so has created a procedure for review of Procurement complaints and resolution of disputes with respect to the competitive bid process conducted by the City of Sarnia.

### **Scope/Application**

This procedure applies to all employees of the City, members of Council and any bidder that is or may become engaged in Procurement activities.

### **Glossary of Terms**

“Complainant” means a vendor that is protesting a Procurement process under this procedure.

“Protest Committee” means the City’s Procurement Protest Resolution Committee consisting of the following team members:

- Chief Administrative Officer
- Director of Finance
- Department Director responsible for the relevant Procurement
- Purchasing Manager

### **Procedure**

#### ***Debriefing***

A Complainant must have requested and received a telephone debriefing prior to initiating a formal protest under this procedure.

### ***Notice of Protest***

In order to initiate a formal Procurement protest under this procedure, the Complainant must submit a written notice of protest to the Purchasing Manager within (14) days from the date of the debriefing.

The notice of protest must clearly state the nature of the complaint, giving full details and history of events leading to the complaint, including relevant dates and information clearly identifying the reason for the complaint.

### ***Acknowledgement of Receipt***

The Manager of Procurement will make every effort to acknowledge the notice of protest within two (2) working days of receipt.

### ***Initial Review***

On receipt of the notice of protest, the Purchasing Manager will review the complaint to determine if further action is appropriate. A complaint may be dismissed without further consideration where:

- a) The Complainant has not requested and received a debriefing;
- b) The notice of protest is received more than fourteen (14) days after the debriefing; or
- c) The complaint is, in the opinion of the Purchasing Manager frivolous or invalid or otherwise inappropriate for consideration.

If the complaint is dismissed the Purchasing Manager will notify the Complainant of the reason for the dismissal.

### ***Protest Committee Review***

Unless the complaint has been dismissed in accordance with Section 4, the Procurement Division will work with the Project Manager to prepare a report setting out any background information and documentation relevant to the protest.

The Purchasing Manager will convene a meeting of the Protest Committee to review and consider the Complainant.

If the review extends longer than thirty days, the Complainant will be advised in writing or electronic mail when they may expect a response.

The determination of the Protest Committee is the final determination under this procedure. If the Complainant is not satisfied with the response of the Protest Committee, the Complainant may, at that point consider other options, including challenges under the applicable trade agreements and or governing laws.

## **Roles and Responsibilities**

### ***Procurement Division***

It is the role of the Procurement Division to:

- a) Facilitate and manage the Procurement protest process;
- b) Maintain Competitive Bid Process documentation;
- c) Maintain a log of protests received; and
- d) Monitor and report to the Director of Finance on Procurement protest activities and the outcome of protest reviews.

### ***Director of Finance***

It is the role of the Director of Finance to:

- a) Ensure compliance with this procedure and resolving incidents on non-compliance;
- b) Review and approve responses to the Complainant; and
- c) Implement changes to the City's Policy, standard operating procedures, training methods and tools in response to issues identified through the Procurement protest process.

### ***Project Manager***

It is the role of the Project Manager to:

- a) Ensure information and documents required by the Procurement Division in connection with a Procurement protest are provided in a timely manner; and
- b) Respond to any questions or requests for information from the Protest Committee.

## **General Terms of the Procurement Protest Procedure**

### ***Delay***

The award of any contract shall not be rescinded nor the progress of any project delayed by a notice of protest received under this procedure, unless recommended by the City.



### ***Information***

All exchanges of information between the Complainant and the City shall be regarded as “without prejudice” communications and shall be treated as confidential by the parties and their representatives, unless otherwise required by law.

### ***Time***

Time is of the essence, and all protests shall be communicated without delay and resolved in a timely manner. Email correspondence may be used by the parties in the Procurement protest process.