

MUNICIPALITY OF THE COUNTY OF
ANTIGONISH

TOPIC:	Procurement and Sustainable Purchasing Policy
POLICY NUMBER:	16
DATE APPROVED:	October 21, 2014 (2014-156)
DATE REVISED:	

TITLE:

This Policy may be cited as the “Procurement Policy” of the Municipality of the County of Antigonish.

Preamble:

The Municipality of the County of Antigonish has developed this policy to ensure that procurement of all goods and services is carried out in a manner that is fiscally responsible, while attempting to sustain or improve the environment, economy, and quality of life in Antigonish County. Procurement by the Municipality of the County of Antigonish will consider recycling, reusing, and resource recovery in its purchasing practices.

Policy:

1.0 PURPOSE:

- a. The purpose of the Procurement and Sustainable Purchasing Policy is to establish procedures for purchasing goods and services that are required for carrying out the daily operations of the Municipality of the County of Antigonish.
- b. This Policy encourages staff and associates to purchase quality products, and services at prices that are competitive, while considering the entire life cycle of the product or service, effectively purchasing in a sustainable manner that is fiscally, socially, and environmentally responsible.

2.0 ADMINISTRATION:

- a. Municipal Council is responsible for the approval of all purchasing conducted through public tender.
- b. The Municipal Clerk Treasurer is responsible for ensuring departmental compliance with policy; day-to-day administration is the responsibility of all Municipal Staff tasked with purchasing.

3.0 DEFINITIONS

In this policy:

- a. Alternative Procurement Practice – The purchase of goods or services without a public tender or other competitive process
- b. Atlantic Standard Terms and Conditions – Standard instructions that support public tenders issued by the four Atlantic provinces for goods and services. Supplements

may be added if and when required. For terms:
<http://www.gov.ns.ca/tenders/policies-processes/terms-and-conditions.aspx>

- c. Best Value – Bids may be evaluated not only on purchase price and life cycle cost considerations, but also taking into account items such as environmental and social considerations, delivery, servicing, and the capacity of the bidder to meet other criteria as stated in the public tender documents;
- d. Bid – A supplier response to a Public Tender notice to provide goods, services, construction or facility. A Bidder means a person, firm or corporation who submits a bid;
- e. Construction – A construction, reconstruction, demolition, repair, or renovation of a building, structure, road or other engineering or architectural work. It does not include professional consulting services related to the construction contract, unless they are included in the procurement;
- f. Environmental Consideration – Factors associated with the purchase, manufacture, operation or disposal of a product or asset that affects the environment;
- g. Goods – Materials, furniture, merchandise, equipment, stationary, food, and other supplies required by a department or the Municipality at large for the transaction of its business and affairs, and includes services that are incidental to the provision of such supplies;
- h. Life Cycle Costing – An analysis that goes beyond the purchase price and also considers the costs of items such as shipping and packaging, disposal of packaging, energy use, maintenance, warranty, parts and repairs, consumable supplies, and disposal;
- i. Procurement Value – the value of the total contract excluding taxes but including all options whether exercised or not. For Facilities, this value is determined by the monthly lease or rent multiplied by the terms of the contract;
- j. Public Procurement Act – An Act outlining the rules related to the Procurement Activity of all public sector entities in the Province of Nova Scotia:
http://nslegislature.ca/legc/bills/61st_3rd/3rd_read/b023.htm
- k. Public Tender – A type of procurement where the acquisition of goods, services, construction or facilities must be obtained through public advertisement. Public tenders include traditional tenders, requests for proposals, and two-phase bids;
- l. Requests for proposals – A formal invitation to suppliers to describe how their services, methods, equipment or products can address and/or meet the needs of the Municipality of the County of Antigonish;
- m. Request for Quotations – Formally obtaining price quotations from a number of different suppliers

- n. Services – A Service required by a department, or the Municipality as a whole, for the transaction of its business and affairs, but does not include services provided by an employee of a department through a personal services contract;
- o. Social Consideration – Factors associated with the purchase of a product or asset that relates to the right or interests of works or community involved. Includes working conditions, fair wages, and compliance with human rights legislation and conventions;
- p. Standing Offer – A Standing Offer is a contractual agreement between the Municipality and a pre-approved supplier, where the supplier agrees to provide certain goods or services on an “as required” basis, during a particular period of time, at a pre-determined price or discount, generally within a pre-defined dollar limit;
- q. Traditional Tender – A formal invitation made publically to supplier to bid to supply specified goods or services.

4.0 SCOPE

This Policy applies to the procurement by the Municipality of the county of Antigonish of all goods and services, including construction and facilities, by purchase or lease, but does not apply to procurements:

- a. By the Municipality from organizations owned or controlled by the Municipality;
- b. Where a construction project is managed by a third party on behalf of the Municipality of the County of Antigonish, in which case the procurement for the project must be in accordance with the contract between the Municipality of the County of Antigonish and the third party, and in accordance with generally accepted procurement practices.

5.0 PRINCIPLES

5.1 All procurement carried out by the Municipality of the County of Antigonish must be carried out with a view to:

- a. Ensure an equitable, open and transparent process for the acquisition of goods and services by the Municipality of the County of Antigonish;
- b. Avoiding dishonesty, corruption or favouritism in the procurement of goods and services;
- c. Encouraging competitive bidding wherever possible and, in any event, minimizing the Municipality of the County of Antigonish’s cost of acquiring goods and services while obtaining best value;
- d. Utilizing suppliers who can be expected to provide satisfactory performance;

- e. Taking into account environmental considerations in all procurement decisions and selecting environmentally beneficial goods and services where practical;
- f. Complying with applicable regional, national and international trade agreements, including the Agreement on Internal Trade and the Atlantic Procurement Agreement;
- g. Complying with the Public Procurement Act, S.N.S 2011, c.12 and regulations made pursuant to the Public Procurement Act.

5.2 Pursuant to s.15(1) of the Public Procurement Act, all council and employees involved in procurement on behalf of the Municipality of the County of Antigonish must:

- a. Ensure their procurement activities are conducted according to this policy, provincial and federal legislation, trade agreements and ethical business practices;
- b. Encourage and support collaborative procurement amongst other municipalities and public sector entities such as hospitals and school boards;
- c. Follow leading procurement practices;
- d. In good faith, conduct business with current and prospective suppliers and be fair in all business dealings;
- e. Strive to obtain best value for each expenditure;
- f. Require suppliers provide accurate representation of goods, services, and construction;
- g. Encourage suppliers to consider integrating environmental, economic, and social considerations in their product or service offerings;
- h. Encourage the negotiation of an equitable and mutually acceptable settlement when a dispute arises;
- i. Request removal from a procurement process when a personal conflict of interest is perceived.

6.0 NORMAL PROCUREMENT PRACTICES

6.1 For goods and services with an estimated value of less than \$3,000.00:

- a. The procurement decision must be made by the applicable Director, Department Head or by an employee designated by the Director or Department Head.
- b. Goods and services must be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value.

- c. If the goods or services cannot be procured under subsection 6.1(b), the goods or services may be purchased based on formal or informal written quotations from a minimum of three qualified suppliers. Where three quotations are not available, documentation demonstrating the invitation of adequate competition and the attempt to obtain best value must be maintained on file for internal and external audit purposes.

6.2 For goods and services with an estimated value between \$3000 and \$25000:

- a. The procurement decision must be made by the applicable Department head or by an employee designated by the department head;
- b. Goods and services must be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value;
- c. If the goods or services cannot be procured under subsection (b), the good or services must be procured by a request for quotation.

6.3 For goods and services with an estimated value of more than \$25000:

- a. The procurement decision must be made by Municipal Council;
- b. Goods and services must be procured by the public tender.

7.0 ALTERNATIVE PROCUREMENT PRACTICES

7.1 In order to balance the need for open, competitive process with the demands of urgent or specialized circumstances, alternative procurement circumstances may be followed. These practises must be used only for the purposes intended and not to avoid competition or to discriminate against specific suppliers.

7.2 When an alternative procurement purchase occurs, the reason for doing so must be documented and include the rationale permitting the alternative procurement circumstances. This documentation must be signed by the Municipal Clerk Treasurer. Council shall be informed within two (2) business days following the use of an Alternative Procurement Practice.

7.3 The Municipal Clerk Treasurer may authorize Alternative Procurement Practices in the circumstances as described below:

- a. Where an unforeseeable situation of urgency exists and the goods, services or construction cannot be obtained in time by means of open procurement procedures.
- b. Where goods or consulting services regarding matters of confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentiality, cause economic disruption or otherwise be contrary to the public interest.

- c. Where compliance with the open tendering provisions set out in this policy would interfere with the municipality's ability to maintain security or order to protect human, animal or plant life or health.
- d. In the absence of tenders in response to an open or selective tender, or when the tenders submitted have been collusive, or not in conformity with the essential requirements in the tender.
- e. To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licences, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative.
- f. Where there is an absence of competition for technical reasons and the good or services can be supplied only by a particulate supplier and no alternative or substitute exists.
- g. For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly.
- h. For the purchase of goods on a commodity market.
- i. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor.
- j. For work 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.
- k. For the procurement of a prototype or a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases.
- l. For the procurement of a prototype or a first good service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases.
- m. For the procurement of original works of art.
- n. For the procurement of subscriptions to newspapers, magazines, or other periodicals.
- o. For the procurement of real property.
- p. For the procurement of goods intended for resale to the public.
- q. For procurement from philanthropic institutions, prison labour, persons with disabilities, sheltered workshop programs or through employment equity programs.

- r. For procurement from a public body or a non-profit organization.
- s. For the procurement of services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation.

8.0 TRADE AGREEMENT EXEMPTIONS

The Municipality of the County of Antigonish requires all procurement be conducted within the allowances of this policy. It should be noted that there are not requirements within trade agreements to publicly tender for:

- a. Professional services such engineers, architects, accountants, lawyers and notaries;
- b. Services of financial analysts or the management of investments by organizations who have such functions as their primary purpose; and
- c. Financial services respecting the management of government financial assets and liabilities

9.0 COOPERATIVE PROCUREMENT

Municipal personnel are encouraged to look for opportunities to collaborate with other municipalities or government agencies when the arrangement may result in overall cost savings or other substantial advantages. Examples of cooperative procurement may be for commonly used and standardized goods, services, fuel oil, natural gas, telecommunications etc.

10.0 METHODS OF PROCUREMENT

10.1 Standing offer includes:

- a. A standing agreement between the Municipality of the County of Antigonish and a supplier in which the supplier commits to providing specified goods or services at a specific price for a specific period of time. Such standing agreements should themselves be the subject of a competitive tender process;
- b. Equipment leasing programs through the Government of Nova Scotia;
- c. Nova Scotia Provincial “standing offers” administered by the Nova Scotia Government;
- d. Supplies and services available from the Nova Scotia Government;
- e. A procurement program administered by the Union of Nova Scotia Municipalities or the Association of Municipal Administrators;
- f. Any other program available to several municipal units and other public sector entities, provided that municipal staff is satisfied that such a program had been developed and conforms to the principles set out in this policy.

10.2 Request for quotations:

- a. Quotations must normally be sought from at least three suppliers but fewer suppliers may be used when three suppliers are not available within a reasonable distance, having regard to the value of goods and services, the shipping or travel cost and the amount of time available before the goods and services are required to be available. If it is decided to obtain fewer than three quotations, the person responsible for that decision must document their reasons for doing so.
- b. Quotations must normally be obtained in writing, but when time does not permit the obtaining of written quotations, the quotations may be obtained verbally, except when this policy stipulates otherwise. If a quotation is obtained verbally, the person obtaining it must document the quotation, including the time, date, supplier, price and description of the goods and services, the person from whom the quotation was obtained and the name of the municipal staff obtaining the quotation.

10.3 Public tender:

Public tender means publically advertising the Municipality of the County of Antigonish's intended procurement of certain goods or services and inviting responses from interested suppliers. Public tenders are used for higher value procurements, when the cost of the goods or services warrants the time, effort, and expense required for a public tender process. Public tenders can be in the form of traditional tenders, requests for proposals, or two phase bids.

- a. Traditional Tender:
 - I. A Traditional Tender should be used when the procurement requirements of the Municipality can be clearly and completely specified.
 - II. Traditional tenders do not have to be opened in public, but if they are not, the name of each bidder and the amount of their bid must be made available to each bidder after the tenders are opened.
 - III. The Municipality must not negotiate with any bidders, but must award the procurement contract to the bidder that meets the tender requirements and provides best value.
- b. Request for Proposals (RFP):

Is a formal invitation to suppliers to describe how their services, methods, equipment or products can best address and or meet the Municipality's needs.

- I. A RFP may be used when the Municipality is unable to clearly or completely specify the goods or services required, and suppliers are therefore asked to provide a solution to the problem, requirement or

objective. Requests for proposals may also be used for professional and consulting services.

- II. To preserve confidentiality of sensitive commercial information contained in a proposal, proposals submitted in response to a request for a proposal need not be opened in public, but must be opened in the presence of at least two representatives of the Municipality, and after the proposals are opened a list of the proponents must be available to the public and the proponents upon request. Negotiations may be conducted with a proponent after proposals have been opened, subject to complying with the terms of the request for proposals which must be drafted to avoid unfair “bid-shopping” by the Municipality.
- III. The procurement contract must be awarded to the proponent/supplier whose proposal is determined to provide best value to the Municipality based upon evaluation criteria set out in the RFP and equitably applied to all proposals.

11.1 *Two-phase bids*, is a process that invites suppliers to submit bids as follows:

Phase One: One or more steps in which bidders submit proposals for evaluation either with or without prices in separate submission;

Phase Two: Only the bidders whose bids were determined to be acceptable will be entitled to submit priced bids for consideration or, where prices are submitted separately in Phase One, the prices are opened.

- I. This process may be used when detailed specifications are not available or it is impractical to prepare specification based on price. This type of procurement has the advantages of a RFP for Phase One and a traditional tender in Phase Two.
- II. Phase One submissions need not to be opened in public, but must be opened in the presence of at least two representatives of the municipality, and a list of the proponents will be available to the public and the proponents upon request. Phase two bids must be opened in public.
- III. The Municipality must not negotiate with any bidders, and must award the procurement contract to the supplier whose proposal is determined to provide best value to the Municipality based upon the evaluation criteria set out in the Phase One request for submissions equitably applied to all proposals, and the prices in Phase Two.

11.0 REQUIREMENTS FOR ALL PUBLIC TENDERS

The Following requirements apply to all public tenders, whether traditional tenders, or requests for proposals:

- 11.1 The Municipality must provide reasonable notice and opportunity to respond to public tenders, and must post or place notices of public tenders as follows:
 - a. On the public website maintained and operated by the government of Nova Scotia.
 - b. On the Municipality of the County of Antigonish's website.
 - c. In other media, as directed by the Municipal Clerk/ Treasurer, when it is determined that the cost and nature of the procurement warrants the expense of doing so.
- 11.2 Every public tender must include or have attached the terms and conditions that govern the tender. The terms and conditions of every notice of public tender must be consistent with:
 - a. The standard instructions that support public tenders issued by the four Atlantic provinces for goods and services, known as the Atlantic Standard Terms and Conditions, for the procurement of goods and services;
 - b. The standard instructions that support construction tenders issued by the government of Nova Scotia, known as the Construction Contract Guidelines, for the procurement of construction.
- 11.3 Public tenders should normally include specifications or terms as follows:
 - a. Expressly or by implication outlining the issues or criteria that will be used for selection of a successful bidder or proponent;
 - b. A privilege clause stating that the lowest or any bid or proposal will not necessarily be accepted;
 - c. The location for the delivery of bids or proposals;
 - d. The means of delivery of bids or proposals, e.g., whether faxes or emails are acceptable in addition to "hard copy" submissions;
 - e. The time and date of closing;
 - f. A warning that tender documents and bids will be open to the public, except to the extent otherwise stated in a call for tenders or a request for proposals, in which event there must be included a warning that proposals or bids are subject to the Freedom of information and Protection of Privacy provisions of the Nova Scotia Municipal Government Act;
 - g. For design or architectural services, a statement that the Municipality will own the copyright in the design, plans and other intellectual property produced for the Municipality.

- 11.4 Public tenders should also include a form of contract that the successful bidder will be required to enter into with the Municipality, or should direct the bidders or proponents must provide the form of contract with their bid or proposal.
- 11.5 For each public tender that is awarded the Municipality must post the name of the successful supplier and the contract amount on the public website maintained and operated by the government of Nova Scotia and on the Municipality's website.
- 11.6 The Terms and Conditions of every public tender must state the criteria that the Municipality will use in evaluating responses. Those criteria are not limited to purchase price and life cycle cost considerations, delivery servicing and the capacity of the supplier.

12.0 SUPPLIER DEBRIEFING

Pursuant to s.17 of the Public Procurement Act, upon the request of a supplier who is the unsuccessful bidder in a public tender, the Municipality must conduct a debriefing with that supplier to provide feedback on the evaluation of the public tender. The debriefing must be conducted as follows:

- a. The Municipal Clerk/ Treasurer or designated Senior Staff involved in the Tender process must conduct the debriefing;
- b. The debriefing must provide reasons for the disqualification of the supplier, or in the case where evaluation scoring was used, provide an overview of the supplier's score in each category and reasons for that score;
- c. The debriefing must also provide information to the supplier on how to improve future submissions;
- d. The debriefing must not disclose any information regarding other bidders or their submissions.

13.0 SUSTAINABILITY CONSIDERATIONS

Pursuant to the Public Procurement Act, in evaluating which goods or services offer best value to the Municipality, sustainability criteria may be considered; meaning environmental, social and or economic considerations. All requests for quotations and notices of public tender must list the sustainability criteria that apply to that procurement. The Integrated Community Sustainability Plan (ICSP) of the Municipality supports approaching procurement with a "green lens".

Considerations include:

- a. Green House Gas Reduction
- b. Reduce use of energy and water; purchase Energy Star and Water Sense Products
- c. Support of the Local Economy by supporting locally owned and operated small/ medium business for purchasing and sourcing.
- d. Occupational Health & Safety and Active Living

- e. Purchasing products only when existing materials cannot be reused; when purchasing choose those made from renewable resources.
- f. Avoid toxic materials where choices are available.
- g. Fiscal responsibility & return on investment
- h. Life Cycle Cost, including durability; biodegradability or compost-ability; packaging; recyclability
- i. Inclusiveness / Accessibility / being supportive of social enterprise
- j. Diversity
- k. Fair Wage / supportive of labour standards both locally and internationally
- l. Waste Reduction

14.0 CONTRACT AND RISK MANAGEMENT

Section 12(g) of the Public Procurement Act requires municipalities to adopt contract and risk management guidelines. These guidelines shall be established by the Municipal Clerk/Treasurer.

15.0 DISPOSAL OF SURPLUS EQUIPMENT

Goods, Supplies and assets which are declared surplus by the Municipality, shall be sold in the most efficient manner to obtain the highest return by trade-in (vehicles and equipment), request for quotation, public tender or public auction in accordance with this policy. Elected officials and employees of the Municipality or their agents shall not be permitted to bid on the purchase of surplus material.

16.0 CONFLICTS OF INTEREST

If a staff member otherwise authorized to award a contract has a conflict of interest, the award must be made by the person to whom the conflicted staff member normally reports and the conflicted staff member must not participate in the procurement process related to the contract in any manner.

17.0 DURATION OF CONTRACTS

Contracts for goods and services that are required to be procured by public tender under this policy, including price agreements, must be re-tendered at least once every 5 years but may be re-tendered more frequently at the direction of Council.

18.0 LEASE ARRANGEMENTS

Lease Arrangements are subject to the provisions of this policy, save and except that Council's authority must be obtained for any leases required by the NS Municipal Government Act to be authorized by Council.

19.0 APPROVAL OF FORM OF TENDER

Public tendering documents are to be reviewed by the Municipal Clerk Treasurer or his/her designate prior to issuance to ensure consistency of tendering documents and practices.

20.0 FEES

The Municipality may charge a fee or deposit to interested parties prior to being given tender documents.

21.0 POSTING ON THE MUNICIPALITY OF THE COUNTY OF ANTIGONISH WEBSITE

A copy of this policy must be posted on the Municipality of the County of Antigonish website.

22.0 COMPLIANCE WITH POLICY

All staff and councillors must act in good faith to comply with this Policy, but failure to comply with this policy does not invalidate any procurement decision or act of the Municipality, nor is the Municipality liable to any supplier or prospective supplier for failing to comply with this policy.

23.0 REPORTING

The Municipality shall submit all legislated reports to the Provincial government with respect to procurement policies and activity, as required by section 12(k) of the Public Procurement Act.

24.0 PREVIOUS POLICIES

Any previous purchasing and tendering policies of the Municipality of the County of Antigonish are hereby repealed.