

The Corporation of the Township of Whitewater Region

By-law Number 19-06-1182

A by-law to establish Procurement and Vendor Disqualification Policies

Whereas, section 270(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended allows the township to pass by-laws regarding the procurement of goods and service; and

Whereas, the Council of the Township of Whitewater Region deems it expedient and necessary to establish procurement policies;

Now therefore Council of the Corporation of the Township of Whitewater Region enacts as follows:

1. That the Procurement Policy is hereby established.
2. That the Vender Disqualification Policy is hereby established.
3. That the corporate policies attached shall form a part of this by-law.
4. This by-law shall come into force and take effect upon the date of the final passing thereof.

Read a first, second and third time and finally passed this 19th day of June, 2019.



Michael Moore, Mayor



Carmen Miller, Clerk

Policy: Procurement Policy

Main Contact: Treasurer

Last Revision: June 2019

[Policy Statement](#)

[Purpose](#)

[Definitions](#)

[Policy Requirements](#)

[Monitoring](#)

[Authority](#)

[Contact](#)

[Change History](#)

Policy Statement

The Township of Whitewater Region is committed to ensuring the most cost-effective methods are utilized to acquire goods and services for all Township departments.

Purpose

The policy ensures that the prices paid for goods and services make optimum use of Township resources, while supporting the fair and consistent treatment of all vendors who are involved in the procurement process. The policy also establishes and delegates authority related to procurement matters.

Definitions

"Accountability" is the means of explaining and enforcing responsibility. It involves rendering an account of how responsibilities have been carried out and problems corrected.

"Acquisition Method" means the process by which goods or services are procured.

"Answerability" is the duty to inform and explain but does not include the personal consequences associated with accountability.

"Approved Budget" means a capital or operating budget approved by the Council for the fiscal year.

“Authority” means the legal right to conduct the tasks outlined in this policy as directed by Council.

“Award”, “Awarded” and “Awarding” mean authorization to proceed with the purchase of goods, services or construction from a chosen supplier.

“Bid” means an offer or submission from a vendor in response to a request for quotation, tender or proposal, which is subject to acceptance or rejection.

“Blanket Purchase Orders” means agreements between the Township and one or more suppliers under which the supplier agrees to supply a certain class of items for an agreed period of time. The purpose of a blanket purchase order is to allow an authorized requisitioner to deal directly with a supplier.

“CAO” means the Chief Administrative Officer of the Township of Whitewater Region and includes a person named as “Acting CAO.”

“Confidential Information” means all information of the Township that is confidential in nature, including all Confidential Information in the custody or control of the Township, regardless of whether it is identified as confidential or not, and whether recorded or not, and however fixed, stored, expressed or embodied. For greater certainty, Confidential Information shall include:

- a. All new information derived at any time from any such information whether created by the Township or a Vendor or any third party;
- b. All information considered by Council in camera/closed session; and
- c. All information (including personal information) that the Township is obliged, or has the discretion, not to disclose under provincial or federal legislation or otherwise.

“Consulting and Professional Services” includes all professionals such as architects, engineers, designers, surveyors, planners, accountants, auditors, lawyers, management consultants, software, hardware and financial consultants, brokers, soil and salt consultants, environmental consultants, medical professionals, health and safety consultants and any other consulting and professional services rendered on behalf of the Township.

“Contingency” means funds identified to cover events that may occur in the future, that is unexpected or arise due to a problem, emergency, or related expense that might arise and needs to be dealt with, and therefore must be prepared for.

“Contract” means a formal legal agreement between two or more parties and can be oral, written or implied.

“Contract Extension” means an amendment to a Contract which has the effect of increasing the value of the Contract in funds, increasing the scope of work and/or extending the term of the Contract.

“Cooperative Purchasing” means coordination of Township purchases with other municipalities or non-profit organizations in order to realize economies of scale.

“Coordinated Works” means coordinated projects within the Township or within a department.

“Council” means Council of the Corporation of the Township of Whitewater Region.

“Councillor” means an elected member of Council and includes Mayor and Reeve.

“Designate” means the authorized designate or such official as may be appointed to act on behalf of the authorized authority. This must be done in writing and cannot be a blanket authorization.

“Department” means any department/unit within the Township.

“Direct Negotiation” means a procurement method where there is no competitive process and negotiations are entered into with one or more Vendor, but does not include negotiations conducted as part of a negotiated Procurement Process;

“Eligible Bid” means a Bid that has been found to have met specific mandatory requirements (procedural and substantive), does not give rise to any conflicts of interest, and has not been submitted by a Vendor that has been removed from consideration for Contracts in accordance with the Township's Vendor Disqualification Policy.

“Emergency” means a situation or a threat of an impending situation, which may affect the environment, life, safety, health and/or welfare of the general public, employees or the property of the residents of the Township, or to prevent serious damage, disruption of work or to restore or to maintain essential service to a minimum level.

“Expanded Works” means approved construction projects in which an unexpected problem arises during construction which expands the scope of the project and is necessary in order to deliver the original approved work.

“Goods” includes supplies, equipment, materials, structures and fixtures to be delivered, installed or constructed including recurring or non-competitive expenditures set out in Appendix B.

“Immediate Supervisor” in this policy means the person, to whom the employee directly reports.

“Manager” means the manager, superintendent or director of a department/unit with the Corporation of the Township of Whitewater Region.

“Mayor” means the elected Mayor or the Reeve acting in the absence of the Mayor.

“Non-Standard Result” means a result in a procurement in which Bids are submitted and any of the following has occurred or is likely to occur:

- a. No Eligible Bids are received;
- b. Less than two Eligible Bids are received;
- c. Another Procurement Process would have resulted in successful completion of the procurement in the determination of the Treasurer based on the bid results.

“Official Vendor File” means the Township’s electronic database of Vendors who currently supply, have previously supplied or wish to supply, goods, services or construction to the Township of Whitewater Region.

“Personal Purchase” means a purchase of goods and services, the requirement for which is not for the Township or any of its purposes, but is personal to the person requesting the purchase.

“Procurement Process” includes all methods of procurement including Requests for Information, Requests for Expressions of Interest, Requests for Quotations, Requests for Proposals, Requests for Supplier Qualifications, Direct Negotiations and calls for Tenders;

“Professional and Consulting Services” means a person or firm, who by virtue of particular expertise, is hired by the Township to undertake a specific task or assignment that may include designing specifications and preparing plans or programs.

“Purchases” means the acquisition of goods or services for which the Township will undertake to pay, regardless of the cost being funded or subsidized by other levels of government.

“Purchase Order” means the legal document which is the Township’s commitment to the Vendor for the purchase of goods, services or construction at an agreed upon price, terms, conditions and delivery date and also serves as the Vendor’s authority to ship and charge for the goods and/or services specified on the order.

“Purchasing” means the central purchasing function under the authority of the Treasurer authorized to perform the Purchasing activities on behalf of the Corporation.

“Real Property” means all land, structures, firmly attached and integrated equipment (such as light fixtures), anything growing on the land, and all interests in the property. It is distinguished from the personal property, which is made up of movable items.

“Responsibility” identifies the field within which an employee or official (whether elected or appointed) can act. It is defined by the specific authority given to an office holder (by law or delegation).

“Request for Expressions of Interest” or “RFEI” means a Procurement Process used to gather information on Vendor interest in an opportunity or information on Vendor capabilities/qualifications.

“Requests for Information” or “RFI” means a Procurement Process to gather general Vendor, service or product information from potential Vendors.

“Request for Proposals” or “RFP” means a Procurement Process where a need is identified, but how it will be achieved is not prescribed by the Township at the outset. This process allows Vendors to propose solutions or methods to arrive at the end product and it allows for evaluation on criteria in addition to price.

“Request for Quotations” or “RFQ” means a Procurement Process where prices on specific goods, services or construction are requested from selected Vendors, which are submitted in writing, transmitted by facsimile or by email as specified in the Request for Quotation.

“Request for Supplier Qualifications” or “RFSQ” means a Procurement Process used to gather information on Vendor capabilities and qualifications, with the intention of creating a list of pre-qualified Vendors.

“Single Source” means engaging in Direct Negotiations with a Vendor to provide goods, services or construction where there is more than one Vendor capable of supplying the goods, services or construction in the market, but the circumstances fit into one of the exceptions set out in Appendix B.

“Sole Source” means engaging in Direct Negotiations with a Vendor to provide goods, services or construction where there is only one Vendor is able to meet the requirements of the procurement under one of the circumstances set out in Appendix B.

“Request for Tender” means an offer in writing to supply certain specified goods, services or construction at a fixed price, in response to a publicly advertised call for Tenders.

“Tender Opening Committee” means a committee of three people comprised of the Treasurer, Clerk and representative of the operating department or designates to facilitate the public opening of Bids.

“Time-sensitive” means a situation for which the timing to initiate and/or complete the purchase is paramount but the time available to follow normal procedures is insufficient.

“Total Procurement Value” means the total cost and conferred value associated with a contractual relationship between the Township and a bidder, exclusive of sales taxes.

“Township” means the Corporation of the Township of Whitewater Region.

“Vendor” means an individual or organization that may offer goods, services or construction to the Township including but not limited to contractors, consultants, suppliers and service organizations.

Policy Requirements

1.0 Principles

1.1. Best Value for Tax Dollars

The policy is designed to ensure that purchasers assess risks in the procurement of goods and services and put mechanisms in place to mitigate those risks. The following principles and goals should be considered when determining the procurement method to be utilized in any purchasing undertaking:

- a. To promote the most cost effective and efficient use of Township funds and resources by acquiring the specified goods and services at the optimum quality, quantity, price, delivery and performance.
- b. Unless otherwise approved by Council, to purchase goods and services only as approved in the annual budgets while ensuring there are mechanisms in place to deal with situations outside the budget process, such as emergencies.
- c. To encourage competition among suppliers and 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. To use vendors who can be expected to provide satisfactory performance based on reputation, references, past experience, and sufficiency of financial and other resources.
- d. To always consider the "total procurement value" rather than the lowest bid while preserving best value for tax dollars. This includes, but is not limited to, such factors as repairs, staff training, suitability, compatibility, warranty, disposal, and life-cycle costs.
- e. To delegate the appropriate level of authority to enable Township departments to meet service requirements while preserving appropriate purchasing policies.
- f. To ensure that employees who are responsible for requisitioning and purchasing goods and services are accountable for their actions and decisions.
- g. To participate with other publicly funded bodies in co-operative purchasing activities where they are in the best interest of the Township.
- h. To abide by the Township of Whitewater Region's Council and Employee Codes of Conduct.
- i. To ensure service and product delivery, quality, efficiency and effectiveness;
- j. To ensure openness, accountability and transparency while protecting the financial interest of the Township of Whitewater Region;
- k. To outline the roles and accountabilities of Council, CAO, Treasurer, Managers and their delegates.

1.2. Non-Discrimination

The Township will not adopt or maintain any measures that would differentiate between Vendors, or goods or services or construction on the basis of geographic location in Canada except as allowed by legislation.

1.3. Transparency

The Township will ensure that this policy and notices of intended procurement and awarded contracts are made readily accessible to the public through its website. A debriefing letter will be sent to bidders when requested.

1.4. Fair Acquisition Process

- a. Purchases shall be subject to a specified procurement method:
 - i. To encourage open competitive bidding where practical, the open bidding processes shall be both objective and fair. Objectivity will be maintained through processes that will be developed and implemented in an unbiased manner, not influenced by personal preferences, prejudices or interpretation. Fairness will be maintained by applying the policies equally to all bidders.
 - ii. To promote fairness and structure specifications that do not exclude certain vendors or manufacturers unless there is documented evidence to warrant exclusion.
- b. Long-term Contracts are appropriate so long as they are properly procured in accordance with this policy and there is a demonstrated business need approved by the Treasurer.
- c. Unless specifically set out herein, the Township will ensure that its needs for goods, services and construction are met through a fair acquisition process that is based on the highest degree of competition, efficiency and effectiveness.
- d. The information provided in a procurement notice shall include at least the following:
 - i. a brief description of the procurement contemplated
 - ii. the place where a person may obtain information and Bid documents
 - iii. the conditions for obtaining the procurement documents (if any)
 - iv. the place where the Bids are to be sent
 - v. the date and time limit for submitting Bids
 - vi. the proposal process
 - vii. the time and place of the opening of the Bids in the event of a public opening, and
 - viii. the planned award date and any conditions of such award.

- e. The Township may, in evaluating Bids, take into account the submitted price, quality, quantity, delivery, servicing, the capacity of the Vendor to meet the requirements of the procurement and any other criteria.
- f. Procurement documents shall clearly identify the requirements of the procurement, the criteria that will be used in the evaluation of Bids and the methods of weighting and evaluating the criteria.
- g. The Township may limit Bids for goods, services and construction to Vendors qualified, through a pre-qualification process, prior to the close of call for Bids.

1.5. Exceptions

- a. The Township may exclude a procurement from a competitive Procurement Process in the circumstances listed in Appendix B provided that the exclusion is not for the purposes of avoiding competition between Vendors or in order to discriminate against Vendors within Canada.
- b. Where only one supplier is able to meet the requirements of procurement, the Township may exclude a procurement from a competitive Procurement Process in the circumstances listed in Appendix B, provided the exclusion is not for the purpose of avoiding competition or in order to discriminate against Vendors within Canada.

1.6. Direct Negotiation Procurement

- a. The Township may limit its tendering to Canadian goods or Vendors, provided the Township is satisfied that there is sufficient competition among Canadian Vendors and the requirement for Canadian content is no greater than necessary to qualify the procured good as a Canadian good.
- b. In order to better ensure open, fair and competitive practices amongst entities who are party to various trade treaties, the Treasurer may elect to designate jurisdictions that impose local trade restrictions and companies from those jurisdictions shall be ineligible to submit Bids in respect of Township Procurement Processes or otherwise conduct business with the Township.

1.7. Complaints and Disputes Resolution

- a. Complaints and disputes arising from or related to application of this policy or its content shall be referred to the Treasurer.
- b. The final stage of complaints and disputes resolution shall be heard by the CAO.
- c. The Township will provide Vendors from other Provinces/Territories the same rights and privileges to challenge Contract decisions that are available to Ontario Vendors.
- d. The complaints and disputes resolution process shall not cause delay in the awarding of a Contract by the Township.

1.8. Language

The Township's Procurement Processes will be conducted in the English language and where required by legislation or by agreement with the Federal Government, in the French language.

1.9. Confidentiality

Nothing in this policy requires the Township to breach confidentiality obligations imposed by law or to compromise security concerns or commercially sensitive or proprietary information identified by a Vendor in its procurement documents.

1.10 Publication of Award Information

For Tenders and Requests for Proposals, publication of award information is required within 72 days after the award with the following information:

- a. Description of the goods/services procured
- b. Name and address of successful supplier
- c. Value of the successful tender or the highest and lowest offers taken into account in the award of the contract, and
- d. Type of procurement method used and justification if limited tendering was used.

2.0 Goals of Procurement Methods

The charts to follow outline the procurement methods of each process.

Table 1: Goals of Procurement Methods

Item	Competitive Process Seeking Multiple Bids or Proposals				Non-Competitive Procurement
	Request for Proposal/ Information	Request for Tender	Request for Quotation	Informal, Low Value Procurement	
Key goals	<p>To implement an effective, objective, fair, open, transparent, accountable and efficient process for obtaining unique proposals designed to meet broad outcomes to a complex problem or need for which there is no clear or single solution.</p> <p>To select the proposal that earns the highest score and meets the requirements specified in the competition, based on qualitative, technical and pricing considerations.</p>	<p>To implement an effective, objective, fair, open, transparent, accountable and efficient process for obtaining competitive bids based on precisely defined requirements for which a clear or single solution exists.</p> <p>To accept the lowest bid meeting the requirements specified in the competition.</p>	<p>Same as for Request for Tender, except that bid solicitation is done primarily on an invitational basis from a pre-determined bidders list supplemented with public advertising of the procurement opportunity, if warranted.</p>	<p>To obtain competitive pricing for a one-time procurement in an expeditious and cost-effective manner through phone, fax, email, other similar communication method, vendor advertisements or vendor catalogues.</p>	<p>To allow for procurement in an efficient and timely manner without seeking competitive pricing.</p> <p>To provide for exceptions to the procurement requirements.</p> <p>To also provide for any additional exceptions stipulated in the purchasing policy, providing that they are not in contravention of the trade agreements or legislative requirements.</p>

Table 2. Circumstances for Use of Procurement Methods

Item	Acquisition Method				Non-Competitive Procurement
	Request for Proposal /Information (25,000+)	Request for Tender (\$15,000+)	Request for Quotation (\$5,000 - \$14,999)	Informal, Low Value Procurement (less than \$5,000)	
Dollar value of procurement	Medium to High Value	Medium to High Value	Low to Medium Value	Low Value	Any value, subject to proper authorization and to requirements of the trade agreements and legislation.
Purchaser has a clear or single solution in mind and precisely defines technical requirements for evaluating bids or proposals	Rarely	Always			
In evaluating bids/proposals from qualified bidders, price is the primary factor and is not negotiated	Low to Moderate Likelihood	Always			Not Applicable

3.0 General Responsibilities

The Township of Whitewater Region and all its Managers shall:

- 3.1 Ensure all planned estimated purchases are to be identified in the Township annual budget.
- 3.2 Bring to Council for approval any procurement of a capital nature that was not identified in the budget process.
- 3.3 Acquire goods and services through the application of the highest standards of procurement and business ethics (See Appendix A.)
- 3.4 Procure the necessary quality and quantity of goods and/or services in an efficient, timely and cost-effective manner, while maintaining the controls necessary for a public institution, in accordance with this purchasing policy.
- 3.5 Encourage the most open, competitive bidding process practicable for the acquisition and disposal of goods and/or services, and the objective and equitable treatment of all vendors.
- 3.6 Ensure the maximum value of an acquisition is obtained by determining the total cost of performing the intended function over the lifetime of the task. This may include, but not be limited to, acquisition cost, installation, disposal value, disposal cost, training cost, maintenance cost, quality of performance and environmental impact.
- 3.7 Acceptance of a supplier shall be based upon the combination of the following considerations: quality, price, service, maintenance, warranties and guarantees, reputation, location, availability, expertise, references, qualifications and experience.
- 3.8 Efforts will be made to partner with other departments, municipalities or organizations in order to purchase common goods and services where the result is likely to be a better price for all partners or improved maintenance/service.
- 3.9 No staff shall purchase goods or services where the total price is beyond their written delegated authority or not included in the approved budget. The Treasurer must be consulted to advise on appropriate funding sources.
- 3.10 Contracts are to be signed by those who have authority to bind the Township.
- 3.11 Subject to direction by Council and CAO, Managers have the delegated responsibility of analyzing the particular procurement, determining the budgetary constraints and impacts, assessing the risks of that procurement and determining the appropriate method of procurement, subject to the limits of authority outlined in the policy.

4.0 Approval Authorities

- 4.1 All purchases must be within the approved Township Budget for the year in question. Unforeseen capital expenditures or significant operating expenditures must be brought to Council for consideration. Further, consultation with the CAO and Treasurer is required prior to Council consideration.
- 4.2 Emergency situations may occur which may not allow for prior approval of extraordinary expenditures. In these cases, the Treasurer may approve emergency purchases and provide the information to Council.
- 4.3 The Accountability Framework for the Township allows for the appropriate delegation of purchases to ensure that separation of duties is maintained. In no situation should anyone benefiting from an expenditure, approve such expenditure. As such, the framework is as follows:
- a. The Treasurer must approve purchases whereby the CAO is the direct recipient.
 - b. All purchases where managers are direct recipients must be approved by the CAO or Treasurer;
 - c. All purchases must be approved by a Manager.

5.0 Approval Levels

- 5.1 Unless otherwise approved by Council, all estimated planned purchases of goods and services must be approved in the annual budgets. Formal approval of the budget estimates constitutes financial approval to proceed with the procurement within this policy. The ability to incur actual expenditures is delegated to Township Staff based upon the following approval levels:

Amount	Position
Less than \$5,000	Group 1: Authorized Staff
\$5,000-\$14,999	Group 2: Managers, Superintendents, Directors
\$15,000 to \$24,999	Group 2 + CAO (both required)
\$25,000 and Over	Township Council

6.0 Finance Department Responsibilities

- 6.1 Financial Services under the direction of the Treasurer will provide a central purchasing function where practicable and appropriate.
- 6.2 The Treasurer, in consultation with the CAO, may limit the purchasing authority to designates as appropriate.

6.3 Financial Services also has the following responsibilities:

- a. Ensure that the corporate policies and procedures are adhered to and continually review the corporate use of goods and/or services to ensure that the Township is receiving the best quality, quantity, service, price, etc.
- b. Ensure that business transactions are conducted ethically and professionally.
- c. Develop and monitor procedures regarding purchase orders, commitments, receiving, payables, asset management and property.
- d. Train all staff performing purchasing functions on policies and procedures around purchase orders, receiving, accounts payable, asset accounting, inventory management and property attachment.
- e. Advise and assist in preparation of Requests for Proposal, Requests for Information, Tenders, contracts and agreements as required.
- f. Analyze financial implications and risks of procurement and ensuring proper insurance coverage is attained for all procurement.
- g. Maintain records of business transactions. Ensure that all purchasing transactions are reflected in the books of account and documentation is retained.
- h. Ensure that policies and procedures are analyzed for efficiency and effectiveness on a regular basis as well as vendor evaluation.
- i. Perform random audits of purchasing transactions to ensure compliance with these policies and associated procedures.
- j. Communicate developments in the field of purchasing.
- k. Continuously research purchasing principles and make improvements to policies and procedures.

7.0 Manager Responsibilities

- 7.1** Ensure that all purchases are performed in accordance with the Purchasing Policies and Purchasing Procedures.
- 7.2** Ensuring that delegated purchasing authority is done in accordance with the accountability framework and that the delegate is fully competent in procurement.
- 7.3** Ensure that corporate standards are adhered to for purchases that fall under Corporate Tenders, RFPs, RFIs, RFQs or Standing Agreements.

8.0 Prohibitions

The following activities are prohibited unless specifically approved by Council:

- 8.1** The division of purchases in order to reduce the total purchase price so as to avoid the requirements of the policy by any method, which includes purchases made using procurement cards.
- 8.2** Purchase by the Township of any goods or services for personal use by or on behalf of any member of Council, appointed officers, employees of the Township or their immediate families, unless otherwise approved by Council.

- 8.3 The acceptance of gifts, benefits, money discounts, favours or other assistance by elected officials, officers and employees, and their families as part of the procurement process. The image and integrity of the employee and the Township of Whitewater Region must be preserved at all times.
- 8.4 Purchase by the Township from any member of Council, appointed officers, employees of the Township or their immediate families or from any other source that would result in a conflict of interest, unless such interest has been declared and has been approved by Council.

9.0 Award of Purchase

9.1 Award Considerations

In addition to total purchase price, consideration may be given to the following in determining the lowest responsible bidder:

- a. the ability of, capacity, and skill of the bidder to provide the goods or services requested
- b. the ability of the bidder to perform the contract or provide the services promptly or at the time specified without delay or interference
- c. the character, integrity, reputation, judgement, experience and efficiency of the bidder
- d. references obtained for all procurement whereby the total purchase price exceeds \$25,000
- e. the quality and performance of previous contracts, good or services
- f. the sufficiency of the financial resources and ability of the bidder to perform the contract or provide the goods or services
- g. the quality, availability and adaptability of the goods or contractual services to the particular use required
- h. the ability of the bidder to provide future maintenance and services for the items acquired, and
- i. the number and scope of conditions attached to the bid.

9.2 Council Reports

A Council report, specifying the budget affected and confirmed by the Treasurer, is required in the following situations:

- a. Awards \$25,000 and over
- b. Non-competitive bids \$15,000 and over
- c. Where the contract is not being awarded to the lowest bid which has met the specification, terms & conditions of the tender or proposal
- d. Where a substantive objection emanating from the bid solicitation has been filed with a representative of the Township
- e. Any situations where a senior government (i.e. Provincial, Federal) has requirements, including reporting.

10.0 Contracts

- 10.1 Upon approval by Council through resolution for purchases \$25,000 and over, the Manager shall award the tender/proposal and finalize contract provisions in consultation with appropriate advisors as required.
- 10.2 Upon approval by both the CAO and Treasurer together for purchases under \$25,000, the Manager shall award the tender/proposal and finalize contract provisions in consultation with appropriate advisors as required.
- 10.3 The contract must be executed by the Mayor and Clerk (or their designates).

11.0 Non-Competitive Procurement

- 11.1 In general, procurement by the Township is to follow the competition principles contained in this policy. Non-competitive procurement is used only in the following circumstances:
 - a. when there is a statutory or market-based monopoly on the item
 - b. when no bids were received in a competitive process
 - c. when the required item is covered by an exclusive right such as a patent, copyright or exclusive license
 - d. when the purchase is already covered by a lease-purchase agreement where payments are partially or totally credited to the purchase
 - e. when it is necessary to ensure compatibility with existing products or to avoid violating warranty/guarantee requirements when service is required
 - f. when the required item is in short supply due to market conditions
 - g. when competitive sourcing for low value procurement would be uneconomical or would not attract bids
 - h. when competitive procurement may be found to be impractical for such items as meal expenses, incidental travel expenses, training and education expenses
 - i. when an urgent procurement is necessary for fulfilling a statutory order issued by a federal or provincial authority, such as an environmental, public health, or workplace safety compliance order.
 - 11.2 The Manager must analyze each purchase to determine the appropriate purchasing methodology. If the purchase is to be made without competition, the Treasurer must ensure it meets the criteria above.
 - 11.3 All non-competitive bids under \$15,000 must be approved by the both Treasurer and CAO together.
- ### **12.0 Pre-Qualification of Acceptable Bidders**
- 12.1 The purpose of this policy is to set out guidelines for pre-qualification to select a number of bidders prior to the competitive sealed bid process. The purpose of pre-qualification is to ensure that each bidder can demonstrate they have the

ability to provide the necessary expertise and resources to satisfactorily complete the work required.

- 12.2 Pre-qualification would normally be considered in the following circumstances:
- a. the work is considered high risk with respect to the *Occupational Health and Safety Act* or its regulations;
 - b. the work is such that contract administration costs (work inspection, follow-up, extra fee negotiations) could result in a substantial cost to the Township if the work is not satisfactorily performed the first time;
 - c. the goods or equipment to be purchased must meet national safety standards, or if no standard has been established, has demonstrated an acceptable level of performance; or
 - d. the work involves complex, multi-disciplinary activities or specialized expertise, equipment, materials, or financial requirements.
- 12.3 This is a two-step process, where either a competitive sealed bid or a proposal call will follow (sometimes referred to as the two-envelope process). Pre-qualification is the first step and would set out criteria requiring bidders to provide information such as, but not limited to:
- a. experience on similar work (firm and staff assigned)
 - b. references provided from other customers for similar work
 - c. verification of applicable licenses and certificates
 - d. ability to perform the work
 - e. health and safety policies and staff training, and
 - f. financial capability.
- 12.4 Appropriate staff will evaluate and rank the submissions and then recommend a short list of acceptable bidders who will be invited to participate in the subsequent competitive procurement method.
- 12.5 Alternatively, the Township may issue a Request for Information to build supplier interest and to see if there are enough suppliers to justify a full Request for Proposal competition. The RFI would request detailed information such as, but not limited to, company background, who the interested parties are, what they can offer and what they can do for the Township. Any resulting bid document will be advertised/released and will be open to all vendors who wish to participate.
- 13.0 Two-Envelope System**
- 13.1 Typically the two-envelope system is used when the purchaser wants to evaluate the technical and qualitative information of a given proposal without being influenced by prior knowledge of the corresponding pricing information. This may be utilized when a request for proposal (RFP) is issued, but is not necessarily required. The Manager should consult the Treasurer if they are

proposing to utilize the two-envelope system with a justification for the approach.

- 13.2 In this process, each bid is submitted in two envelopes with technical and qualitative information shown in the first envelope and the bid price in the second. The second envelope is opened only if the first envelope shows the bidder is qualified. In the two-envelope approach, each proponent must submit qualitative and technical information in a sealed envelope (envelope one) and pricing information in a second sealed envelope (envelope two).
- 13.3 The contents of envelope one are evaluated and scored according to pre-determined criteria such as relevant firm experience, project team's qualifications/experience, personnel time allocation, understanding of scope of work, methodology/thoroughness of approach, quality and completeness of proposal submission, etc.
- 13.4 When the scoring of envelope one is completed, then the pre-determined process for moving to envelope two is followed. In some procurement strategies, a minimum score threshold is in place at envelope one, and only proposals which meet or exceed that threshold are eligible to proceed to the opening of envelope two and subsequent price evaluation. If a proposal is not eligible to proceed to price evaluation, the proponent is disqualified from further consideration and the second envelope is returned to the proponent unopened.
- 13.5 For each proposal where envelope two is opened, the bid price(s) are scored according to the pre-determined process. The particular procurement and evaluation strategy will dictate the process for scoring the price and subsequently taking the scores from the envelope one and envelope two processes into account, resulting in a total evaluated score for the proposal. The total evaluated scores are ranked, and the proposal with the highest ranked score is considered the successful proposal, unless council or the local board, as applicable, decides otherwise. In the event of a tie, the pre-determined process for handling a tie is followed.

14.0 Specifications

- 14.1 The Department whose budget provides for the acquisition of goods and/or services shall be responsible for the preparation of the specifications for a quotation, tender or proposal call. Other advisors may be consulted to recommend improvements to the specifications when deemed necessary.
- 14.2 Specifications shall be approved by a Manager. When the contract is awarded, the specifications along with the contract is forwarded to the Clerk to be attached to the contract.
- 14.3 Specifications should be detailed but not brand specific to leave room for potential vendors to provide alternatives in the event an equal or better-proven product or method is available and shall not deter a competitive process.

- 14.4 Vendors or potential vendors should not be requested to expend time, money or effort on design or in developing specifications or otherwise help define a requirement beyond the normal level of service expected from vendors. When such services are required:
- a. The contracted vendor will be considered as a consultant and unable to make an offer for the supply of the goods and services, unless approved by the CAO;
 - b. A fee shall be paid;
 - c. The detailed specification shall be approved by the Manager of the initiating department and shall become the property of the Township for use in obtaining competitive bids.
- 14.5 Where it is not possible to prepare precise specifications in order to issue a request for tender for the provision of goods and services, a request for proposal (RFP) or a request for information (RFI) shall be issued. The Manager must approve this approach. The user department in consultation with other appropriate staff, shall prepare evaluation criteria and weightings for the criteria. The document shall clearly distinguish those requirements that are deemed mandatory or non-mandatory and shall clearly outline how these items will be evaluated
- 15.0 Informal Low Dollar Value Procurement (Less than \$5,000)**
- 15.1 The goal for this procurement method is to:
- a. obtain the highest quality of goods and/or services at the lowest possible price, available at the right time and in the right quantities;
 - b. acquire goods and/or services required from qualified suppliers in a manner which promotes fair and equitable relationships with all suppliers;
 - c. purchase within the limits of approved budgets;
 - d. utilize departmental and corporate contracts where available;
 - e. obtain and document more than one competitive quote, when feasible.
- 15.2 Managers may delegate signing authority to staff to purchase goods and/or services less than \$5,000. All purchasers are responsible to adhere to the Purchasing Policies and must consult with the Treasurer to ensure that all opportunities for efficiencies are explored through bulk purchasing.
- 16.0 Request for Quotations (\$5,000 - \$14,999)**
- 16.1 The goal of this procurement method is to implement an effective, objective, fair, open, transparent, accountable and efficient process for obtaining competitive bids primarily on an invitational basis from pre-determined bidders list but may be supplemented with public advertising of the procurement opportunity or referrals from other municipalities or levels of government.
- 16.2 For acquisition of goods and/or services with a total purchase price greater than \$5,000 but not exceeding a total purchase price of \$14,999, included in the

budget, where no contract is available, a minimum of three (3) written quotations shall be obtained. For the purpose of this requirement:

- a. Bids must be received from three separate vendors,
- b. A “No Bid” response is not to be considered as a valid bid unless approved by the Treasurer,
- c. All bidders must receive the same specification and instruction, and
- d. Written quotations shall be retained in the departmental files in accordance with Council approved by-laws for records retention.
- e. The quote shall be awarded to the lowest compliant bid. Although a minimum of three bids is required, an open process with more than three bids will be more competitive, and is encouraged.

- 16.3 When the nature of service warrants, in the opinion of the Treasurer, or where the Vendor requires a different form of commitment other than a Township Purchase Order, a contract in a form satisfactory to the CAO shall be the form of commitment.

17.0 Tenders (\$15,000 and Over)

- 17.1 The goal of issuing tenders is to implement an effective, objective, fair, open, transparent, accountable and efficient process for obtaining competitive bids based on precisely defined requirements for which a clear or single solution exists.

- 17.2 Tenders shall be coordinated with Financial Services who will ensure:

- a. completeness of documentation
- b. advertisements are arranged
- c. closing dates and tender opening are scheduled
- d. vendor contact for information is appropriate.

17.3. Tender Document Preparation

- a. The specifications contained within the tender documents are the responsibility of the issuing department.
- b. In the case of Construction and Maintenance Contracts (i.e. roads, bridges, municipal services including buildings, etc.) Public Works will be responsible for the standard tender document. Standard bidding documents of the construction industry will be employed whenever possible.

17.4 Contents of the Tender Document

The tender document will consist of a number of sections. They are described below. When considered in its entirety, the document must contain the appropriate information so that staff evaluating the bids can determine that:

- a. The bidder understands the full scope of the tender for which bids have been invited; and

- b. The bidder is capable and willing to perform all of the required work or provide all of the required goods/services; and
- c. The bidder is capable and willing to enter into a legal agreement with the municipality for the provision of the required goods/services; and
- d. The bidder offers financial guarantees that a formal agreement will be executed, and that all goods/services will be provided following the terms of the executed agreement.

17.5 Tender documents will contain at least the following:

- a. A cover sheet with the name of the tender, the closing date and time, and the issuer or contact person within the Township
- b. Information to Bidders contains non-technical information that advises the bidders of the general terms and conditions that apply to the tender of goods and/or services.

17.6 Performance Guarantee/Financial Guarantee.

To ensure proper execution of the work, a performance guarantee in the form of cash, certified cheque, irrevocable letter of credit, or bond (performance, labour, and/or material) may be required. All requirements must be clearly outlined in the Information to Bidders.

17.7 Specifications

The specification section will provide details to describe accurately and precisely the nature, scope and extent of the goods and/or services required. As outlined in the policy specifications may not be structured to exclude certain vendors or manufacturers unless there is documented evidence to warrant exclusion.

17.8 Form of Tender

The tender form when properly completed and signed is a legal offer by the bidder to carry out the tendered work. The tender form should include an acknowledgement from the bidder that he has reviewed and understands all of the tender documents, and that he is prepared and capable of carrying out the contemplated work. Proper and clear identification of the bidder as well as clear bid prices must appear on the completed tender form.

17.9 Tender Envelope

A standardized tender envelope or envelopes are provided to all bidders where appropriate.

17.10 Advertising

The responsible department will give notice of the Tender in the newspaper and on the Township of Whitewater Region website. Electronic tendering networks, as available will also be employed. All tenders shall be open for bid by vendors

for a minimum period of two weeks unless critical or exceptional time constraints limit the period available for bidding.

17.11 Pre-qualification

Pre-qualification of bidders is desirable to ensure that prospective bidders have the necessary knowledge, experience, and financial resources to complete the work. If pre-qualification is required for a particular tender, no Form of Tender or Tender Envelope is to be issued to any prospective bidder until they have pre-qualified. However, during the pre-qualification process, certain documents (i.e. specifications) may be made available.

17.12 Opening

All such tenders shall be called, advertised, opened and awarded in accordance with the tendering procedures.

17.13 Purchase Order

When the nature of service warrants, in the opinion of the Treasurer, or where the Vendor requires a different form of commitment other than a Township Purchase Order, a contract in a form satisfactory to the Township Manager or designate shall be the form of commitment.

18.0 Request for Proposals (\$25,000+)

18.1 The goal of this process is to implement an effective, objective, fair, open, transparent, accountable and efficient process for obtaining unique proposals designed to meet broad outcomes to a complex problem or need for which there is no clear or single solution. To select the proposal that earns the highest score and meets the requirements specified in the competition, based on qualitative, technical and pricing considerations.

18.2 Where it is not possible to prepare precise specifications in order to issue a request for tender for the provision of goods and services greater than \$25,000, or when alternate methods are being sought to perform a certain function or service, a request for proposals shall be issued which will include evaluation criteria and weightings for the criteria. All such proposals shall be called, advertised, opened and awarded in accordance with the procedure for proposals.

18.3 Specifications

Exact specifications are not predetermined but the outcomes expected are reasonably stated. By issuance of a Request for Proposal, the Township is soliciting creative input and inviting suppliers to propose a solution to a problem, requirement or objective.

18.4 Form of Proposal

Since the exact specifications are not predetermined, so the form of proposal will also be less specific. However, it should clearly indicate those needs which have been determined and which will have to be fulfilled by the successful proponent.

18.5 Opening of Proposal Submissions

The opening follows the general procedures for the opening of tenders, except that no prices will be read out if a two-envelope process is selected. The receipt of the submissions and by whom they were submitted will be read aloud and recorded. People wishing to submit shall be advised of the time and location of the meeting.

18.6 Evaluation Process

The selection of the successful proponent is based on the effectiveness of the proposed solution rather than on the price alone. As the evaluation process will be more complex, the process should be clearly outlined in the Request for Proposal documents. All criteria used to evaluate proposals should be listed. A selection committee shall be established including the Manager, Chair of Council Standing Committee and Treasurer (or their designate).

18.7 All proposals that meet the required terms, conditions and specifications outlined in the proposal document shall be evaluated based on the evaluation criteria and weightings. The award shall be made to the highest scoring proposal. In all cases, the evaluation criteria must have a significant portion dedicated to the financial component.

18.8 In some cases, the RFP Process will include a short listing of vendors based upon the criteria set out in the RFP. This may include the requirement for interviews, presentations, demonstrations or any other requirement that the Evaluation Committee deems appropriate. This element will be scored based upon set criteria and included in the evaluation and final recommendation.

18.9 Prior to awarding a contract as a result of an RFP process, a report must be prepared to Council with a recommendation for award.

18.10 When the nature of service warrants, in the opinion of the Treasurer, or where the Vendor requires a different form of commitment other than a Township Purchase Order, a contract in a form satisfactory to the Township Manager or designate shall be the form of commitment.

19.0 Unsolicited Proposal Policy

19.1 The goal of this procurement method is to allow for procurement in an efficient and timely manner without seeking competitive pricing.

- 19.2 Unsolicited proposals received by the Township shall be reviewed by the CAO and Treasurer to determine if it is in the best interests of the Township to follow a competitive process as outlined by the policies.
- 19.3 Should both the CAO and Treasurer together determine that the proposal is a unique sole source type offer that warrants further consideration the following shall apply:
- a. The Manager shall provide to the proponent a sample document of the Township's minimum standard terms, conditions and requirements. At the same time the Treasurer shall clearly indicate to the proponent that the Township may require additional terms, conditions and requirements in excess of the minimum Township requirements provided in the sample document once the proposal has been further evaluated. The Manager will confirm that the proponent recognizes that any agreement that may follow must comply with the Township's minimum standards and conditions.
 - b. The Manager shall take forward a report to Council outlining particulars and seeking direction from Council on the course of action to proceed. This method should only be used in exceptional circumstances.
- 20.0 Policy on Performance**
- 20.1 At the completion of every contract for goods and/or services over \$25,000, the Manager is responsible to complete a Performance Evaluation form. Managers are encouraged to follow this practice for all contracts regardless of dollar amount, especially where valuable performance appraisals need to be shared with other departments.
- 20.2 Documented poor performance or non-performance on Township contracts will be used to determine the eligibility of a bidder to participate on future requirements for the Township and eligibility to remain on the Vendor List. Any vendor being excluded from a bidding process due to poor or non-performance will be reported to Council.
- 20.3 Public Works shall be responsible for the vendor performance evaluation process with regard to construction and maintenance contracts issued.
- 21.0 Consulting and Professional Services**
- 21.1 The purpose of this policy is to set out guidelines for acquiring Consulting and Professional Services.
- 21.2 Consulting and Professional Services shall be acquired in accordance with the general procurement process where quotations, tenders or proposals are required. The department will endeavour to see that individuals and firms providing Consulting and Professional Services have fair access to Township assignments.

22.0 Emergency Purchases

- 22.1 The purpose of this policy is to set out guidelines for acquiring goods and/or services when an emergency arises.
- 22.2 When the Mayor has declared an Emergency under the *Emergency Management and Civil Protection Act*, or in the opinion of the CAO the situation meets the definition of emergency, goods and/or services shall be acquired by the most expedient and economical means.
- 22.3 Financial Services will provide cooperative assistance when requested to expedite any purchasing documents necessary to deal with the Emergency.
- 22.4 Subsequent to the resolution of the Emergency, all transactions require a commitment and receiving document to complete the procurement process.

23.0 Negotiations

The purpose of this policy is to set out guidelines for acquiring goods and/or services through the negotiation process. Occasionally, when conditions dictate, negotiations for goods or services may be conducted. This process may be adopted when any of the following conditions apply:

- a. goods or services are judged to be in short supply due to market conditions
- b. where there is only one known source for the goods or services (sole source)
- c. when two or more identical bids have been received, local preference may be applicable
- d. where the lowest bid received that meets specifications is excessive in total cost or substantially exceeds the estimated costs
- e. when all bids received fail to meet the specifications or tender terms & conditions and it is impractical to recall tenders or quotations
- f. when a single source is being recommended because it is more cost effective or beneficial for the Township
- g. for the extension of a contract which has expired and unforeseeable circumstances have caused a delay in issuing a new tender/proposal document
- h. a time-sensitive situation, or
- i. for expanded or coordinated works.

24.0 Cooperative Purchasing

- 24.1 The Township may participate with other local municipalities, government agencies or public authorities in cooperative acquisition ventures when it is in the best interest of the Township to do so. The procedures and policies of the Township must be considered along with the policies and procedures of the agency calling the tender, proposal or quotation.

- 24.2 Each party will issue its own contract and is responsible for the remainder of the procurement function (ordering, receiving, inspecting and payment) unless it is decided by the Treasurer.
- 24.3 Cooperative ventures initiated by departments will require prior approval of the CAO.
- 25.0 Lease Financing**
- In certain circumstances, it may be economically advisable for the Township to enter into a financing lease to acquire the rights to use capital property and equipment rather than an outright purchase. This policy establishes the evaluation requirements of potential financing lease agreements and the requirements for the reporting the results of those procedures to Township Council as required under *the Municipal Act, 2001*, as amended, and Ontario Regulation 46/94, as amended. Annual reporting of financing lease agreements and transactions is also included.
- 25.1 **Statement of Policy and Goals**
- When Managers consider the options of a financing lease agreement, consultation with the Treasurer must be undertaken. The Treasurer will evaluate the options, analyze the overall impact on the Township and must ensure that this goal is achieved. Adherence to the policies and procedures herein will result in a report presented to Township Council which clearly gives an opinion as follows:
- whether or not the costs of the financing lease agreement are lower than other methods of financing available in short or long term to the Township. The costs shall consider all aspects including service, maintenance, disposal and risks; and
 - whether the risks associated with the financing lease are reasonable.
- 25.2 This policy applies to all Financing Leases for Municipal Capital Facilities. Financing lease means a lease allowing for the provision of municipal capital facilities if the lease may or will require payment by the municipality beyond the term for which the council was elected. Financing leases include both material leases and non-material leases. Material lease means a financing lease which would result in a material impact for the municipality. Non-material lease means a financing lease which would not result in a material impact or a combined material impact for the municipality. Material impact means costs or risks that significantly affect, or would reasonably be expected to have a significant effect on, the debt and financial obligation limit prescribed under Ontario Regulation 799/94, as amended.
- 25.3 Combined material impact means the costs or risks of a proposed non-material lease which, when combined with all other non-material leases entered into or proposed to be entered into in a particular year by the municipality, would result

- in a material impact. Municipal capital facilities include land, works, equipment, machinery and related systems and infrastructures.
- 25.4 A financing lease agreement must include a schedule of all fixed amount of payment, if any, required under the lease and that may be required under any possible extensions or renewals of the lease.
- 25.5 Before entering into a material lease, the Treasurer must present a report to Township Council which:
- a. evaluates the financial costs of the lease; and
 - b. evaluates the potential risks of the lease.
- 25.6 The report must include an evaluation of the Schedule of Financing Lease Payments included in the Financing Lease Agreement. This report must include:
- a. A summary of all fixed amounts of payment, if any, required under the lease and that may be required under any possible extensions or renewals of the lease
 - b. A comparison between the fixed and estimated costs and the risks associated with the proposed lease and those associated with other methods of financing
 - c. A summary of any contingent payment obligations under the lease that, in the opinion of the Treasurer would result in a material impact for the Township, including lease termination provisions, equipment loss, equipment replacement options and guarantees and indemnities
 - d. A summary, as may be applicable, of the effective rate or rates of financing for the lease, the ability for lease payment amounts to vary, and the methods or calculations, including possible financing rate changes, that may be used to establish that variance under the lease
 - e. A summary of the assumptions applicable to any possible variations in the lease payment and contingent payment obligations, and
 - f. Any other matters that the Treasurer or Council consider advisable under Ontario Regulation 799/94, as amended
- 25.7 To evaluate the Payment Schedule, the total costs must be compared to the costs of other methods of financing. This comparison may include an estimation of the costs of borrowing funds to finance an outright purchase or the cost of interest income foregone as a result of purchase. All assumptions made in preparing this comparison must be stated in the report. If circumstances exist which indicate that a financing lease is the only method of financing available, the Treasurer must indicate this fact in his evaluation and state the reasons that this is the case.

25.8 Evaluating the Risks of the Lease

The report must include an assessment and recommendation indicating whether the risks associated with the financing lease are reasonable. The risks evaluated may include:

- a. Effective interest rate implicit in the lease (as compared to current and estimated future market interest rate fluctuations)
- b. Risk of Obsolescence: rapidly changing technology may cause an asset to become obsolete before the lease expires.
- c. A lease may provide options to permit exchanges for more advanced equipment as it becomes available
- d. Residual Value: if an asset is expected to have a residual value at the end of the lease term, any future benefit of this residual value is lost if the asset is lease
- e. Lease Term: the lease is a contractual agreement and generally non-cancellable prior to its expiration
- f. The risks associated with the proposed lease as compared to those associated with other methods of financing
- g. The costs and risks associated with a proposed financing lease in the report shall be assessed as of the date the report is made
- h. The summary of information in the report including all information required for the entire term of the financing lease, including any possible extensions or renewals.

25.9 The report shall include any legal advice obtained on the provisions of the proposed financing lease agreement.

25.10 At any time after a report regarding a potential financing lease agreement has been made, but before the agreement is entered into, if the Treasurer becomes of the opinion that a changed circumstance with respect to the proposed lease may result in a material impact for the municipality, the Treasurer shall as soon as is reasonably possible update the report and present the updated report to Council.

25.11 Council is responsible for determining whether the costs of financing for the proposed financing lease agreement are lower than other methods of financing available to the municipality, and whether the risks associated with the financing lease agreement are reasonable.

25.12 Council is responsible for ensuring that legal and financial advice has been obtained and must consider whether the scope of the proposed lease warrants further legal or financial advice from an independent source.

25.13 In addition to the aforementioned reporting requirements for new financing lease agreements, an annual report shall be prepared by the Treasurer and

presented to Council if the Corporation has any financing leases subsisting in the fiscal year. The report shall contain the following:

- a. A description of the estimated proportion of the total financing arrangements of the municipality that have been undertaken through financing leases to the total long-term debt of the Township
- b. A description of the change, if any, in that estimated proportion since the previous year's report
- c. A statement by the Township Treasurer as to whether, in his/her opinion, all financing leases were made in accordance with this policy, and
- d. Any other information that Township Council may require or that, in the opinion of the Township Treasurer should be recorded.

25.14 A financing lease agreement is exempted from the requirements of this policy if it will not result in a material impact for the Township and is therefore a non-material lease. This includes the following types of leases:

- a. Any lease entered into in accordance with the Township's Procurement Policy, including, but not limited to, leases of: office equipment; automobiles; communications equipment; machinery and equipment
- b. Any building or property lease entered into in accordance with approved policies and procedures, and
- c. Any leases in place at the time of Council approval of this policy.

25.15 Prior to entering into a financing lease in this category, the Treasurer will prepare a report for presentation to Council which expresses the opinion that the proposed lease is within the exemption category and its costs and risks, in combination with all other leases of that category entered into or proposed to be entered into in that year by the municipality, would not result in a material impact, as defined in this policy. Although the reporting requirements differ, the staff process of evaluating the financial costs and the risks of the lease (vs other methods of financing) should still be utilized.

26.0 Standardization

26.1 Standardization is a management decision-making process that examines a specific common need or requirement and then selects a product or service that best fills that need to become the standard.

26.2 Wherever possible, when more than one application exists for any equipment, product or service, a standard will be established.

26.3 In such cases where the standardization will result in a single source purchase, those policies shall apply.

27.0 Corporate and Procurement Card Policy

27.1 The purpose of this policy is to set out guidelines for acquiring goods and/or services through the use of Township procurement cards. The CAO shall

- appoint employees who will be authorized to use a procurement card to purchase goods and/or services following sound business practices.
- 27.2 The procurement card will be issued once the employee has read, signed and submitted the Procurement Card Agreement Form to the Treasurer, which sets out in writing their responsibilities and restrictions regarding the use of the procurement card.
- 27.3 All procurement cards issued will have a predetermined "single transaction limit", a "monthly credit limit" and "blocked commodities" as determined and authorized by the Treasurer. All procurement cards will be blocked from obtaining cash advances.
- 27.4 The program will be administered and audited by the Treasurer, who will maintain a master file of all procurement cards and limits.
- 27.5 The procurement card shall not be used:
- a. when a contract or tender is in effect for the product (unless authorized by the Treasurer)
 - b. for personal purchases of any nature
 - c. for computer hardware/software (unless authorized by the Treasurer)
 - d. for long-term lease or rental agreements
 - e. when the cost of the goods or services would be significantly increased as a result of using the card and an alternative method is available, and
 - f. for any purchase of goods or services that may be prohibited under any other policy approved by Council.
- 27.6 Vendors will not be rejected as a result of their non-acceptance of procurement cards; however, where pricing is identical, the lowest total acquisition cost may be used in determining the successful vendor.
- 27.7 The cardholder is responsible to retain all receipts and reconcile with the monthly statements. The cardholder is also responsible to report any and all discrepancies on the statement (such as incorrect, unauthorized charges), and inform the Treasurer immediately.
- 27.8 Lost or stolen cards are to be reported directly to the procurement card vendor. The Treasurer is to be informed immediately as well.
- 27.9 The immediate supervisor of the cardholder is responsible to ensure that all procurement policies outlined in this policy are followed by the cardholder.
- 27.10 Upon termination as an employee of the Township, the cardholder must return the card to the immediate supervisor with all outstanding receipts and the account is to be reconciled before the employee departs. The immediate supervisor will be required to follow up on any charges that were incurred following the departure of the cardholder. The immediate supervisor is to

immediately inform the Treasurer of the departure of the cardholder and forward the card to the Treasurer for deactivation.

28.0 Conflict of Interest Policy

- 28.1 Employees of the Township shall not have a pecuniary interest, either directly or indirectly, in any contract with the Township or with any person acting for the Township in any contract for the supply of goods and/or services for which the Township pays or is liable, directly or indirectly to pay.
- 28.2 Employees of the Township are required to declare any pecuniary interest, either direct or indirect, in writing to the CAO.
- 28.3 Members of Council are required to declare any pecuniary interest direct or indirect, and its general nature, which may result in a conflict of interest pursuant to Council Code of Conduct currently in force.
- 28.4 Any contract with the Township, or with any person acting for the Township, and any contract for the supply of goods, materials or services to a contractor for work for which the Township pays or is liable, directly or indirectly, to pay in which a member of Council or any employee of the Township has an undeclared pecuniary interest, directly or indirectly may be voided.
- 28.5 All Township staff and others participating in the evaluation of proposals will be required to complete and sign a Conflict of Interest Form.

29.0 Vendor Complaint Resolution

- 29.1 The Township of Whitewater Region encourages the most open, competitive bidding process for the purchase of goods and/or services required, through clear solicitations for Quotation, Tender or Proposal and the objective and equitable treatment of all vendors.
- 29.2 Vendors who believe they have been treated unfairly can make this known by contacting the Treasurer.

30.0 Compliance to Purchasing Policies

An employee who fails to act in accordance with the provisions of this policy will be subject to appropriate disciplinary action up to and including termination of employment. Township Council, the public, and the business community must have confidence in the integrity of the Township employees.

31.0 Review of Purchasing Policies

The Treasurer will review the policies at least every 24 months.

Monitoring

The Treasurer, in consultation with contracting departments, is authorized to create, amend and delete procedures necessary for the implementation of this policy.

Authority

Section 177 of the *Municipal Act*, the Township Council has the legislated authority to develop and evaluate policies of the municipality and ensures that practices and procedures are in place to implement these policies. Township staff are responsible for the implementation of Council policies.

Contact

Treasurer
P.O. Box 40, 44 Main Street
Cobden ON K0J 1K0
(613) 646-2282

Change History

Policy Name	Effective Date	Significant Changes	By-law No.
Procurement Policy	June 19, 2019	Revised Policy	2019-06-1182

Appendix A: Statement of Ethics for Public Purchasers

The Ontario Public Buyers Association's Code of Ethics states that all employees who are authorized to purchase goods and/or services on behalf of the Township are to adhere to the following.

1. **Open and Honest Dealings with Everyone Who is Involved in the Purchasing Process.** This includes all businesses with which this Township contracts or from which it purchases goods and/or services, as well as all members of our staff and of the public who utilize the services of the Finance Department.
2. **Fair and Impartial Award Recommendations for All Contracts and Tenders.** This means that we do not extend preferential treatment to any vendor, including local companies. It is not good business practice, since it limits fair and open competition for all vendors and is therefore a detriment to obtaining the best possible value for each tax dollar.
3. **An Irreproachable Standard of Personal Integrity on the Part of All Those Designated as Purchasing Representatives for This Township.** Absolutely no gifts or favours are accepted by the purchasing representatives of this Township in return for business or the consideration of business. Also, the purchasing representatives of this Township do not publicly endorse one company in order to give that company an advantage over others.
4. **Cooperation with Other Public Agencies in Order to Obtain the Best Possible Value for Every Tax Dollar.** This Township is a supporter of cooperative purchasing groups. Typical purchasing groups are made up of several public agencies that pool its expertise and resources in order to practice good value analysis and to purchase goods and/or services in volume and save tax dollars.

Appendix B: Recurring and Non-Competitive Expenditures

Items listed below are exempt from the requirements of the Purchasing Policies, save and except for Approval Authority. Managers are encouraged to explore competitive bids for some of these items where such bids may be available (e.g. trainers, facilitators etc.) particularly when the Manager becomes aware that there is a competitive vendor available in the market.

1. Employer's General Expenses

- a. Payroll Deduction Remittances
- b. Debt payments
- c. Grants and Levies
- d. Tax Remittances
- e. Licenses (vehicles, elevator, radios, etc.)
- f. Real Property payments including Land, Buildings, Leasehold Interest, Easements, Encroachments and Licenses, or the like.
- g. Insurance Premiums, Claims, Legal Settlements and Arbitration Awards
- h. Travel Expenses
- i. Other employee related expenses such as memberships in professional organizations, staff attendance of seminars, workshops, conferences, etc.

2. Professional Services

- a. Human Resources Services
- b. Employee training, facilitators, speakers, etc.
- c. Medical Professional Services
- d. Expert Witnesses
- e. Outside Legal Counsel

3. Special Services

- a. Community Service Providers (Daycare, Lodging Homes, Nursing, Homemakers)
- b. Appraisers

4. Utilities

- a. Hydro
- b. Postal Services
- c. Water
- d. Natural Gas
- e. Communications (note: does not include long-distance services, cellular phones or any other communications where a market of more than one supplier exists)

5. Government Bodies: Federal, Provincial or Municipalities.

Appendix C: Statement of Occupational Health & Safety Requirements for Vendors

The Corporation of the Township of Whitewater Region is committed to ensuring that a high standard of health and safety is provided and maintained for all employees, visitors, guests, contractors, agents and others on our premises.

Accordingly, ALL CONTRACTORS SHALL:

1. Demonstrate establishment and maintenance of a health and safety program with objectives and standards consistent with applicable legislation, and with the Corporation of the Township of Whitewater Region's health and safety policies and requirements. For companies with more than five employees, provide a copy of the company's health and safety policy.
2. Submit their Workplace Safety Insurance Board (WSIB) number and CAD-7 rating.
3. Include health and safety provisions in their management systems to reach and maintain a consistently high level of health and safety.
4. Ensure that workers in their employ are aware of hazardous substances that may be in use at their place of work and the Township workplace and wear appropriate personal protective equipment as may be required.
5. Provide a copy the applicable WSIB Certificate of Clearance before starting a project, and upon completion.
6. Ensure that all sub-contractors also provide the above information to the contractor who is responsible to provide this to the Township.
7. Upon request at any time from the commencement to the completion of the contract, submit proof of fulfillment of the above noted responsibilities.

Appendix D: Statement Regarding Accessibility

The *Accessibility of Ontarians with Disabilities Act, 2005* (AODA), is a law passed by the Ontario legislature that allows the government to develop specific standards of accessibility and to enforce them. The standards are made into laws called regulations, and they provide the details to help meet the goal of the AODA, which is a fully accessible Ontario by 2025. The AODA is the foundation on which the subsequent accessibility standards are built.

It is the successful Bidder's responsibility to ensure that it is fully aware of and meets all requirements under the AODA and associated regulations.

Appendix E: Statement Regarding MFIPPA

Please note that the *Municipal Freedom of Information and Protection of Privacy Act*, as it relates to municipalities and local boards, came into force on January 1, 1991. It sets out certain rules regarding the disclosure to third parties of information held by municipalities and local boards.

If a Bidder wishes any or all of the documents that are submitted to the Township as part of a procurement process to be protected from disclosure under the above legislation, they should ensure that a statement, signed by a responsible officer, is attached to the Form of Proposal. This statement will not guarantee that there will never be disclosure, but it does provide the groundwork for handling an application for disclosure by a third party under this legislation.

Appendix F: Township Not Employer

The Corporation of the Township of Whitewater Region is not to be understood as the employer to any successful Vendor nor to such Vendor's personnel or staff for any work, services, or supply of any products or materials that may be awarded as a result of a procurement process. It is understood that the successful proponent will act as an independent contractor. Also, in accordance the *Occupational Health and Safety Act*, any successful Proponent in a construction contract shall agree to be the "constructor" as defined under this act.

Policy: Vendor Disqualification Policy

Main Contact: Treasurer

Last Revision: June 2019

[Policy Statement](#)

[Purpose](#)

[Definitions](#)

[Policy Requirements](#)

[Monitoring](#)

[Authority](#)

[Contact](#)

[Change History](#)

Policy Statement

The Township of Whitewater Region establishes the circumstances that may result in the disqualification of vendors from bidding on Township of Whitewater Region procurements.

Purpose

This Policy establishes the criteria for disqualification.

Definitions

"Bid" means an offer or proposal from a supplier in response to a bid solicitation;

"Goods" means goods of all kinds, including both tangible and intangible, including but not limited to supplies, materials, equipment and licenses;

"Litigation" means any dispute between the Township and any other party or related party adverse in interest before any Court, administrative tribunal or arbitrator and includes a threat of litigation made in writing;

"Services" means services of all kinds including labour, construction, maintenance and professional ad consulting services;

"Tender" means an offer received from a supplier of goods and/or services in response to a public advertisement requesting tenders sealed in an envelope;

“Township” means the Corporation of the Township of Whitewater Region;

“Treasurer” means the Treasurer for the Township of Whitewater Region;

“Vendor” means a legal entity, including an individual, with whom the Township had entered into a contract to acquire Goods and Services or both.

Policy Requirements

1.0 Purpose and Application of Policy

1.1 In order to ensure that the Township is receiving quality goods, services and construction and in order to ensure that it is receiving value for public money, the Township may disqualify Vendors from participating in Township procurement opportunities for prescribed time periods for the following reasons:

- a. The Vendor brought frivolous or vexatious litigation proceedings against the Township;
- b. The Vendor failed to honor a Bid submitted in response to a Township procurement opportunity;
- c. The Vendor failed to disclose conflicts of interest in connection with other Township procurement opportunities;
- d. The Vendor was convicted of bid-rigging, price-fixing or collusion or other statutory offenses;
- e. The Vendor engaged in unethical business practices; or
- f. The Vendor had significant performance issues on a contract with the Township.

1.2 The analysis and factors to be considered by the Township in making a decision to disqualify a Vendor are set out in greater detail in this Policy. Generally, a decision to disqualify a Vendor from participating in Township procurement opportunities must be exercised cautiously. The decision must be supported by evidence, exercised in accordance with the factors set out in this Policy and appropriately approved. A decision to place a Vendor on the disqualification list is discretionary; however, such discretion must be exercised consistently and fairly.

2.0 Reasons for Disqualification

The Township may disqualify a Vendor for one of the following six categories of reasons:

2.1 Litigation:

If a Vendor engages in litigation against the Township, the Township may consider whether or not such litigation should disqualify that Vendor from participating in future Township procurement opportunities. Note that litigation brought by the Township against a Vendor is addressed under Section 2.6 below.

A Vendor who engages in litigation against the Township should only be disqualified in connection with litigation proceedings if there are valid commercial or business reasons for doing so. Disqualification should not be exercised to “punish” the Vendor for bringing a lawsuit. Litigation against the Township in respect of matters unrelated to a procurement process or contracts for the provision of goods, services or construction should not be considered under this Policy. In evaluating whether a litigious Vendor should be disqualified, the Township should consider the following qualitative factors in its analysis:

- a. Is the litigation in relation to a Township procurement process or a contract with the Township for the provision of goods, services or construction?
- b. Is there a history of litigious conduct with the Vendor and has that history resulted in increased costs to the Township?
- c. What was the outcome of the previous litigation? For example, was it frivolous/vexatious or were damages awarded in favour of the Vendor?
- d. Does the Vendor’s litigation with the Township call into question the Vendor’s ability to provide work or services to the Township under future contracts?

2.2 Failure to Honor a Bid:

If a Vendor submits a Bid in response to a Township procurement opportunity and that Vendor subsequently refuses to honor its Bid or the pricing included in that Bid, the Township may consider disqualifying that Vendor from participating in future Township procurement opportunities. However, a Vendor should not be disqualified if their failure to honor a Bid was a legitimate withdrawal of that Bid. Accordingly, the reason why a Vendor did not honor its Bid must be analyzed and considered in making a decision to disqualify that Vendor. Factors that the Township may consider in such analysis include, but are not limited to:

- a. If the Township and a selected Vendor in a negotiated procurement process attempt to negotiate an agreement in good faith and for valid business reasons are unable to come to an agreement, that Vendor should not be disqualified.
- b. If a Vendor fails to honor its submitted pricing because of a change in market conditions, the Township should consider whether pricing fluctuations are common in the industry. If price increases are common, the Township should consider whether the Vendor should have factored this into their

pricing. For example, could the market conditions have been reasonably predicted within the industry? If the Township's acceptance of the Bid took significantly longer than anticipated, the Township should consider the impact of the delay on the Vendor's willingness to honor its submitted pricing.

- c. If a Vendor does not honor its submission because it is too busy on other contracts at the time its Bid is accepted, and the Township's acceptance of the Bid was within the time period set out in the Bid Document, the Township should consider disqualifying that Vendor because Vendors should only submit proposals if they are capable of delivering the services.
- d. Other reasons for a Vendor's failure to honor a submission or pricing should be reviewed contextually and fairly.

2.3 Failure to Disclose a Conflict of Interest

If a Vendor fails to disclose a conflict of interest during a Township procurement opportunity or during the performance of a contract with the Township and the Township subsequently discovers that such a conflict of interest exists, the Township may disqualify that Vendor from participating in future procurement opportunities after conducting an analysis using the following factors:

- a. The nature of the conflict of interest, including whether it is a perceived or an actual conflict of interest and the materiality of the advantage that such a conflict may have given the Vendor.
- b. Whether the Vendor knowingly failed to disclose such a conflict of interest.
- c. The impact such a failure to disclose the conflict of interest has or may have on the Township, including its reputation and the impact on its obligation to conduct a fair competitive procurement process.

2.4 Participation in Prohibited Bidding Practices

If the Township has reason to suspect that a Vendor or Vendors are engaged in bid-rigging, price-fixing, bribery or collusion or other behaviours or practices prohibited by federal or provincial statutes in connection with a Township procurement opportunity, the Township should contact the appropriate authorities and provide such assistance as is required and support a subsequent investigation and if applicable, prosecution. If a Vendor is convicted of bid-rigging, price-fixing or collusion in connection with a Township procurement or in connection with other public sector procurements, the Township shall disqualify that Vendor for a minimum period of three years.

2.5 Unethical Bidding Practices

A Vendor may engage in unethical bidding practices that do not amount to a criminal or statutory offense, but such practices may still warrant disqualification from bidding on the Township procurement opportunities. Examples of such unethical bidding practices include inappropriate offers of gifts to Township employees, elected officials, officers agents, consultants, advisors or other representatives of the owner from potential Vendors, misrepresentations in proposals and inappropriate in-process lobbying of or communications with Township employees, elected officials, officers agents, consultants, advisors or other representatives of the owner by Vendors during a procurement process. The Township must conduct a full review of the unethical practice in question and perform a contextual analysis to determine whether the Vendor or Vendors in question should be disqualified. For example, did the unethical bidding practice compromise the Township's ability to run a fair procurement process?

2.6 Poor Performance

If a Vendor performs poorly on an existing or previous contract with the Township, the Township may consider disqualifying that Vendor in the following circumstances:

- a. The contract was terminated for performance issues prior to expiry.
- b. There were un-rectified performance issues on a contract that resulted in extra costs and or delays to the Township.
- c. The goods were defective and were not replaced or repaired or required multiple repairs.
- d. The Township brought a litigation proceeding against the Vendor in connection with issues related to the contract.
- e. The Township's Treasurer has recommended disqualification of the Vendor in accordance with the Township's vendor performance evaluation process.

All performance issues in connection with the Township contracts must have been effectively managed by the appropriate staff. Performance issues must be supported by documentation evidencing the notification to the Vendor of performance issues and all escalation of such performance issues.

3.0 Disqualification Process

- 3.1 Any decision to disqualify a Vendor must be supported by a written recommendation containing all details connected with the analysis using factors set out in Section 1.0 above. The written recommendation shall be from the Department Head in consultation with the Treasurer.

- 3.2 The written recommendation should also include the length of the disqualification. A Vendor may be disqualified for period of up to three (3) years. The length of the disqualification period should be proportional to the reasons for the disqualification and fair and the full three-year suspension should only be applied in the most serious of disqualifications. A disqualification can either be a blanket disqualification or a disqualification to provide specific goods, services or construction and the recommendation should clearly set out the scope of the disqualification.
- 3.3 All decisions to disqualify a Vendor must be approved by the Chief Administrative Officer and the Treasurer.
- 3.4 Once the disqualification recommendation has been approved, the Treasurer shall write to the Vendor in question informing that Vendor that they are disqualified from participating in Township procurement opportunities for the prescribed time period. The notification letter should contain:
- Full details as to the reasons for the disqualification, including copies of any documents or correspondence to support such a disqualification.
 - The length of the disqualification period and the scope, if applicable.
 - The Vendor's right to re-apply for eligibility within the prescribed time period and the process for requesting such a re-application.

4.0 Review of Disqualification

A disqualified Vendor may apply to be re-eligible to participate in Township procurement opportunities upon the completion of half of the original disqualification period. For example, if the original disqualification period was two years, the Vendor may apply for review of the disqualification after one year. In order to apply to be re-eligible, the Vendor must submit a written case for re-instatement, including supporting documentation if necessary, that provides reasons why the original reason for the disqualification would no longer prove a risk for the Township. Applications for review of eligibility are to be reviewed by the Chief Administrative Officer and the Treasurer.

If the Chief Administrative Officer and the Treasurer are convinced that the reasons for the original disqualification will no longer present risk for the Township should it do business again with the Vendor in question, then the Treasurer may re-instate that Vendor.

5.0 Disqualification List

The Treasurer shall maintain an up-to-date and current list of all disqualified Vendors. Any Vendor having a director that was a director of a Vendor on the disqualified list at the time it was disqualified is also considered disqualified.

The list should contain the full name of the Vendor, the names of the directors of the Vendor, the reasons for the suspension, the Bid call number where the written recommendation for the disqualification is filed, the length of the disqualification period and the date of the expiry of the disqualification period. Review of the disqualification list against a list of Vendors and their directors should be conducted for each procurement to ensure that disqualified Vendors are not allowed to continue in the process.

Monitoring

The Treasurer is responsible for implementation of this Policy.

Authority

Section 270 of the *Municipal Act, 2001*, states that municipalities and local boards shall adopt and maintain policies with respect to the procurement of goods and services.

Contact

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Change History

Policy Name	Effective Date	Significant Changes	By-law No.
Vender Disqualification Policy	June 2019	New policy	2019-06-1182