

# **Policy Discussion Papers Preliminary Discussion**

---

# Request for Recommendation Priorities Committee





Type of Decision									
Meeting	October 18, 2006				Report Date	October 10, 2006			
Decision Requested	X	Yes		No	Priority	x	High		Low
	Direction Only				Type of Meeting	x	Open		Closed

Report Title
Paris Street Bridge Flag Project

Budget Impact / Policy Implication		Recommendation	
x	This report has been reviewed by the Finance Division and the funding source has been identified.		
<p>There is sufficient funding within the Corporate budget to absorb this initiative.</p> <p>Consideration by Council for full implementation of this project will require a budget enhancement in the 2007 Operating and Capital Budget.</p>		<p>That City Council approve the allocation of \$20,000 within the existing Corporate budget (to be matched by community donations) to allow a pilot project of 30 flags to be installed on the Paris Street Bridge and that this funding be reserved in 2006 to allow the project to proceed in 2007.</p>	
x	Background Attached		Recommendation Continued

Recommended by the Department	Recommended by the C.A.O.
<p>Catherine Matheson General Manager, Community Development</p>	<p>Mark Mieto Chief Administrative Officer</p>

Report Prepared By	Division Review
 Chris Gore Manager of Community Partnerships	 Réal Carré Director of Leisure Services

## BACKGROUND:

On December 14, 2005, the Paris Street Bridge Flag Committee, represented by Ursula Sauve and Dan Lee, gave an electronic presentation to City Council which provided an overview of a community project that would see the Paris Street bridge become a unique landmark. The project called for the bridge to be flanked by international flags representing the diverse cultural and national backgrounds of the residents residing in our community. The central flag on either side of the bridge would be the Canadian Flag set on a slightly higher flag pole to balance the display. The display would add a festive and colourful appearance to the bridge and would help to demonstrate the commitment of Sudburians to multiculturalism, respect for other cultures and unity. The Committee emphasized that local cultural groups and individuals would be responsible for supplying the flags and that the flag poles would be owned and maintained by the City on behalf of the people of Sudbury.

Council recommended at that meeting that the Committee should meet with City staff to work on the proposal and report back to Council. Over the past 10 months a number of meetings have been held to first determine the viability and cost of the project and to subsequently ascertain the level of support and involvement that can be anticipated from the community.

An engineering assessment was requested to consider the placement of up to 30 twenty foot flag poles along both the east and west parapet walls of the Paris Street bridge. The assessment included the spacing of the poles, a review of the structural integrity of the bridge/parapet wall to support the mounting bracket and the stresses imposed by the poles and a preliminary design for the mounting bracket to secure the poles to the bridge. The report from the engineering firm indicated that the project was viable from an engineering perspective and that the estimated costs would be \$800 per pole (plus the cost of the flag) and approximately \$400 for the installation of each pole. Total estimated costs for the project came to approximately \$100,000 for 60 flag poles including installation, flags, all materials, engineering costs and contingencies. Ongoing maintenance requirements will be minimal but will need to be reflected in future operational budgets.

The Committee elected to approach the community to determine the level of community support for the project in order to see a pilot project move ahead in time for the 2007 Canada Day Celebrations. The Committee prepared an information flyer which was distributed at the 2006 Canada Day Celebrations at the Sudbury Arena and followed up with several articles and stories through the local media. The request to local groups and individuals asked that each country wanting to have their flag as a part of the display would be required to supply the flags (consistent size and quality) for the initial display and provide funds for replacement flags on an annual basis. The community groups were also given the opportunity to contribute to the realization of the project by donating funds for the purchase of a flag pole and the associated hardware (\$1000).

The City of Greater Sudbury would be responsible for the maintenance of the poles and associated hardware and for replacing the flags as required (once or twice per year) with the new flags provided each year by the participating groups.

The community response has been very encouraging with 43 nations indicating a desire to participate and confirming financial contributions towards the purchase of flag poles and flags. To date \$20,800 has been committed by the community for the project and much of this has already been received and placed in a trust account for the project.

In addition, the Paris Street Bridge Flag Committee has secured the interest of local businesses who are willing to donate their time and equipment to assist with the installation of the brackets and poles as well as with the initial placement of the flags on the poles for the opening year. It is the goal of the committee to have approximately 30 poles in place for the Canada Day celebrations on July 1<sup>st</sup>, 2007. It is anticipated that with \$20,000 of seed money from the City of Greater Sudbury, the \$20,800 committed from community groups to date and the support from local businesses to help reduce the installation costs, this goal is achievable.

---

**Paris Bridge Flag Project**

October 10, 2006

---

<b>Country</b>	<b>Amount</b>	<b>Status</b>
Cayman Island	\$500	Anticipated
Croatia	\$1000	Confirmed
Czech Rep.	\$500	Anticipated
Estonia	\$1200	Confirmed
Finland	\$1200	Confirmed
France	\$500	Anticipated
Germany	\$1200	Confirmed
Greece	\$1200	Confirmed
India	\$1200	Confirmed
Ireland	\$1200	Confirmed
Italy	\$1200	Confirmed
Latvia	\$500	Confirmed
Lebanon		To be confirmed
New Zealand		To be confirmed
Norway	\$500	Confirmed
Philippines	\$1200	Confirmed
Poland		To be confirmed
Portugal	\$2400	Confirmed
Spain	\$500	Confirmed
Sweden	\$1200	Confirmed
Switzerland	\$1200	Confirmed
Ukraine	\$1200	Confirmed
USA	\$1200	Confirmed

---

<b>Totals as at October 10/06</b>	<b>\$ 20,800</b>
-----------------------------------	------------------

---

# Request for Recommendation Priorities Committee




Type of Decision									
Meeting	October 18, 2006				Report Date	October 11, 2006			
Decision Requested	X	Yes		No	Priority	X	High		Low
	Direction Only				Type of Meeting	X	Open		Closed

Report Title
Investment Policy

Budget Impact / Policy Implication	Recommendation				
<table border="1"> <tr> <td>X</td> <td>This report has been reviewed by the Finance Division</td> </tr> </table>	X	This report has been reviewed by the Finance Division			
X	This report has been reviewed by the Finance Division				
	<p>THAT the Investment Policy Statement attached to this report dated October 11, 2006 be adopted;</p> <p>AND THAT the appropriate by-law be prepared.</p>				
<table border="1"> <tr> <td>X</td> <td>Background Attached</td> </tr> </table>	X	Background Attached	<table border="1"> <tr> <td></td> <td>Recommendation Continued</td> </tr> </table>		Recommendation Continued
X	Background Attached				
	Recommendation Continued				

Recommended by the Department	Recommended by the C.A.O.
 Lorella Hayes Chief Financial Officer / Treasurer	 Mark Mieto Chief Administrative Officer

Report Prepared By	Division Review
 Cheryl Mahaffy Manager of Financial Planning & Policy/Deputy Treasurer	

## BACKGROUND

### Introduction

The City of Greater Sudbury has excess cash resources available for investment as a result of funds held in reserves, reserve funds, trust funds, the capital fund and as a result of excess cash receipts over cash disbursements at any given time in the year. The investment of excess cash is regulated by statute and part of this statute requires the municipality to adopt an investment policy. There have been recent changes to the statute governing municipal investment and therefore this report highlights the changes and seeks approval for a revised investment policy that is in accordance with the statutory changes.

In 2005, the City of Greater Sudbury had funds available for investment ranging from \$75 M to \$178 M. Investments in 2006 have reached as high as \$200 M. In 2005 the average rate of return on these investments was 2.933%. The portfolio may have long term investments to a maximum of \$25 M and the remaining investments are short term (up to one year). This report is recommending an increase in the maximum amount that can be invested in long term investments at any one time to \$50 M.

Excess funds are invested to adhere to statutory requirements, preserve capital, maintain liquidity to meet financial requirements and maximize the rate of return.

### Changes to the Municipal Act

The Investment Policy (see attached) has been updated to comply with recent changes to the Municipal Act. Investments, unless limited further by Council, are prescribed under Ontario Regulation 438/97, as amended (now further amended by O.Reg. 655/05).

The list of eligible investments as prescribed by regulation has increased with recent amendments. The City can invest only as prescribed by the regulation.

Examples of the expanded eligible investments that apply to the City of Greater Sudbury are listed below:

- Ontario Strategic Infrastructure Financing Authority (OFIFA)
- Post-secondary education institution as defined in s. 3 of the Post Secondary Choice and Excellence Act, 2000
- Board of Governors of college of applied arts and technology
- Board of a Public Hospital within the meaning of the *Public Hospitals Act*
- A non-profit housing corporation as defined in s. 13 of *Housing Development Act*
- Local housing corporation as defined in s. 2 of *Social Housing Reform Act, 2000*
- A Financial Institution named in Schedule III of the Bank Act (Canada)

- Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by a supranational financial institution or supranational governmental entity
- Corporate Debt (with a term less than 5 years)

The City does not have a bond rating, so cannot directly invest in bonds, debentures, promissory notes and securities of a corporation. Should the City acquire such an investment as a gift in a will, it must sell the investment within 90 days of taking ownership.

However, the City of Greater Sudbury may invest indirectly, through the ONE Fund, in the shares of a corporation and corporate debt that has a term longer than five years. The ONE Fund presently has money market and bond funds and will soon have corporate bond and corporate equity funds.

A further change introduced through the Regulation is that the Treasurer is now responsible to report to Council, within 30 days, if the City has made an investment that is inconsistent with its adopted investment policies and goals.

A final small amendment has been the addition of a fourth security rating firm - Fitch. The minimum security rating for investments are prescribed by regulation.

### **Corporate Changes**

Two internal changes are being recommended. At certain times of the year (chiefly when all taxes and most grants have been received, but before construction projects have been fully expensed, and before School Boards have to be paid) the investment portfolio can reach \$200 million for a short period. Until now the maximum amount to be invested in long-term instruments (over one year) has been \$25 million. The recommendation is to increase this limit to \$50 million. This should increase investment earnings while still allowing flexibility within the portfolio.

### **Updated Investment Policy Statement**

The attached Investment Policy Statement has been updated to reflect these change. Substantive changes that have been made are as follows:

#### **Period of Investment**

The limit on long term investments has been increased to \$50 million from \$25 million, to reflect the City's larger portfolio and to maximize investment earnings. As well, the maximum term for long term investments has been removed.

#### **Eligible Investments**

This section has been revised to identify that eligible investments are those prescribed under O. Reg. 655/05.

#### **Frequently Asked Questions**

The question is often raised regarding the difference between reserve, trust, current and capital funds and how they interact. The investment treatment of these funds is elaborated in the Investment Policy Statement. Generally, the current fund handles the day-to-day operating expenses and revenues, while the capital fund transacts major project expenditures and asset

---

acquisitions, and their attendant revenues. This would include amounts contributed from the current budget, reserves and reserve funds. Reserves and reserve funds hold monies that have been specifically set aside for special purposes. Trust funds are restricted funds for specific purposes. Transfers between funds are authorized by Council through the adoption of the annual budget, by special resolution or under the authority of the by-law establishing the funds.

Another frequent question is related to the rationale for investing long term versus short term, and what portion of investment portfolio was long term. To the extent possible, the City matches its investments with anticipated cash flow requirements. Reserve funds and other funds with longer-term investment horizons may be invested for longer periods. The aim is to coincide the maturity of such investments as nearly as practicable with the expected use of the funds. It is recommended that the City set a new limit of up to \$50 million for longer terms (more than one year) in order to capitalize on long term interest rates. Based on the historical monthly levels of investments, it is recommended that a long term investment limit of \$50 million is appropriate. This limit is monitored on an on-going basis to ensure that the portfolio has a diversification of investments that will maximize rate of return.

In general, the current yield curve, the economic outlook (both short and long term), and the cash requirements of the City all play a part in the decision process regarding investments and their term. Increased limits are subject to Council approval.

A third often-asked question is what the impact would be if the capital fund was credited with the interest it earned rather than attributing it to the current fund, and what impact that would have had on our tax levy. In 2005 the capital fund earned \$1.5 million. Had that revenue not been credited to the current fund, this would have equated to about a 1% levy increase.





## INVESTMENT POLICY STATEMENT

### POLICY STATEMENT

The purpose of this investment policy is to provide an investment framework that allows the City of Greater Sudbury to invest excess cash resources within statutory limitations, to protect and preserve capital, to maintain solvency and liquidity to meet on-going financial requirements and to earn the highest rate of return possible. Cash available for investments is generated from funds held in reserves, reserve funds, trust funds, the capital fund plus excess of cash receipts over cash disbursements at any given time during the year.

### INVESTMENT GOALS

The major objectives of this investment policy, in priority order, are:

- i. Adhere to statutory requirements;
- ii. Preserve capital;
- iii. Maintain liquidity to meet financial requirements; and
- iv. Maximize the rate of return.

### LEGAL AUTHORITY

All investment activities will be governed by section 418 of the Municipal Act, 2001 as amended. Investments, unless limited further by Council, will be those as prescribed under Ontario Regulation 438/97 as amended by Ontario Regulation 655/05 or as authorized by subsequent provincial regulations.

### PRESERVATION OF CAPITAL

Ensuring the safety of principal is of paramount importance. The risk of loss is minimized by investing City funds only in those instruments that meet a minimum credit rating. Analysis of the credit worthiness of issuers is undertaken by several reputable credit rating agencies. These agencies assess the relative strength of issuers and their capacity to pay interest and repay principal. Minimum credit ratings for all investments are set out in regulation and are different for different investments. For the investment purposes of the City of Greater Sudbury, acquired securities must meet the required credit rating prescribed by regulation.

In accordance with Ontario Regulation 438/97 should an investment held by the City be re-evaluated by one of these rating firms and fall below the standard required, the City must sell the investment within 90 days after the day the investment falls below the standard.

### MAINTAINING LIQUIDITY TO MEET FINANCIAL COMMITMENTS

The City of Greater Sudbury's investment portfolio shall be sufficiently liquid to meet operating and cash flow requirements that can be reasonably anticipated. This will be done by structuring the portfolio so that securities mature concurrent with anticipated cash demands.

The municipality's cash outflows can only be estimated, necessitating certain levels of liquidity to be built into the investment portfolio to meet variances from forecast and other unanticipated demands.

Liquidity can be measured by the ease with which one can convert the securities to cash. To ensure liquidity, the portfolio should consist largely of securities with active secondary or resale markets. The most liquid instruments available are federal and provincial treasury bills, of which the federal bills are more liquid. Also highly liquid are bank term deposits and guaranteed investment certificates. For the City's investment purposes, the purchase of federal and provincial treasury bills and bank term deposits and guaranteed investment certificates shall provide the necessary liquidity.

#### **RATE OF RETURN**

The City of Greater Sudbury will maximize the rate of return earned on investment income without compromising the above three objectives. Although important, maximization of the rate of return ranks lower than ensuring the safety of the City's funds. Investments are generally limited to relatively low risk securities in anticipation of earning a fair return relative to assumed risk.

#### **INVESTMENT TREATMENT OF THE CITY OF GREATER SUDBURY FUNDS**

##### **OPERATING FUND**

During the early part of the year, the Current Fund is in a borrowing position as major revenues do not materialize until well into the year, whereas expenditures tend to be more evenly timed. Before the City goes "outside" to borrow funds, it first borrows from the Capital and/or Reserve Funds. When borrowing from another fund, the City pays interest at the average monthly investment yield for the City's investment portfolio.

##### **RESERVE FUNDS**

Although most City funds are pooled for investment purposes, interest earned or accrued each month is credited to every reserve fund, based on its balance at the previous month-end. Interest paid is the average rate of return on all investments of the City of Greater Sudbury for the current month.

##### **CAPITAL FUND**

Interest earned by the Capital Fund shall be credited to this fund, based on its balance at the previous month-end at the average rate of return on all investments of the City of Greater Sudbury for the current month. However, in keeping with the City's capital policy, any interest revenue earned by the Capital Fund shall then be credited to the Current Fund.

##### **PRE-FUNDING CAPITAL PROJECTS**

From time to time a capital project may require pre-funding with repayments to come from capital envelopes or other sources over time. So as to maintain the rate of return, both on investments and to the City's funds, interest will be charged on these pre-funded projects at one per cent above the average investment rate locked in at the time pre-funding is approved. This is in accordance with the City's Capital Policy, and in each instance, Council authorization would be required.

##### **TRUST FUNDS**

A number of trust funds are administered by the City. Each trust fund is kept entirely separate, and interest earned is credited directly to each fund.

#### **SUDBURY AIRPORT COMMUNITY DEVELOPMENT CORPORATION**

From time to time the Sudbury Airport Community Development Corporation requires funding, as authorized by by-law. Interest is charged monthly at one percent over the average investment rate.

**PERIOD OF INVESTMENTS**

The City shall maintain an annual cash flow forecast model and monitor it daily to determine cash needs and investment opportunities. Using this tool, investments can be made for periods of time that enable the City to meet its current financial needs and obligations. Within this time framework, every effort will be made to maximize the rate of return on the investments.

Much of the City's short-term cash requirements are predictable, which means a substantial portion of the investment portfolio can be in higher-yielding term investments, which can be timed to mature on or close to dates when funds are to be disbursed.

In general, the current yield curve, the economic outlook (both short and long term), and the cash requirements of the City all play a part in the decision process regarding investments and their term. When interest rates are rising or uncertain, investment terms will tend to be shorter to enable the City to roll its portfolio over into higher yield instruments. Conversely, when interest rates are declining, investments will be in longer term instruments, where possible. The economic outlook and interest rates will be monitored by staff, and decisions concerning investments will be made accordingly.

Up to **\$50 million** may be invested in long-term instruments (greater than one year). The remainder of the portfolio will be restricted to short-term investments (one-year and shorter).

**ELIGIBLE INVESTMENTS AND INVESTMENT LIMITS**

Instruments in which the City may invest must comply with current legislation and be made with consideration for the safety of invested principal and for liquidity to meet financial obligations, while endeavouring to maximize the rate of return. The City may invest in securities as specified by regulation. The main eligible investments available to the City are:

1. Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by:
  - a. Canada or a province or territory of Canada;
  - b. an agency of Canada or a province or territory of Canada;
  - c. a country other than Canada
  - d. a municipality in Canada including our own
  - e. Ontario Strategic Infrastructure Financing Authority (OFIFA)
  - f. school boards or similar entities in Canada, conservation authorities as established under the *Conservation Authorities Act* and other local boards as defined in the *Municipal Affairs Act*.
  - g. post secondary education institution as defined in section 3 of the *Post Secondary Choice and Excellence Act, 2000*;
  - h. board of governors of a college of applied arts and technology of Ontario;
  - i. Board of a Public Hospital within the meaning of the *Public Hospitals Act*;
  - j. a non-profit housing corporation as defined in section 13 of *Housing Development Act*;
  - k. a local housing corporation as defined in Section 2 of *Social Housing Reform Act, 2000*
  - l. the Municipal Finance Authority of British Columbia
2. Bonds, debentures, promissory notes or other evidence of indebtedness of a corporation if, secured by the assignment, to a trustee, as defined in the *Trustee Act*, of payments that Canada or a province or territory of Canada has agreed to make or is required to make under statute and the payments are sufficient to meet the amounts payable under the debt instrument.

3. Deposit receipts, deposit notes, certificates of deposit or investment, acceptances, bonds, debentures, promissory notes or other evidence of indebtedness or similar instruments issued, guaranteed or endorsed by:
  - a. banks listed in Schedules I, II or III to the *Bank Act (Canada)*
  - b. a credit union or league to which the *Credit Unions and Caisses Populaires Act, 1994* applies
  - c. a loan corporation or trust corporation registered under the *Loan and Trust Corporation Act*
  - d. the Province of Ontario Savings Office
4. Bonds, debentures, promissory notes, other evidence of indebtedness issued or guaranteed by the International Bank for Reconstruction, by a supranational financial institution or a supranational governmental organization.
5. Debt of a corporation incorporated under the laws of Canada or a province of Canada with a term of less than 5 years.
6. Investments in the ONE Fund - public sector group of funds of the Local Authority Services Limited and the CHUMS Financing Corporation. The fund presently has money market and bond funds and will soon have corporate bond and corporate equity funds;

The regulation provides specific guidance for investments under Section 142 of the Electricity Act.

If the City of Greater Sudbury acquires bonds, debentures, promissory notes or securities of a corporation as a gift in a will, the City may take ownership of these investments but the investments except for corporate debt with a term of less than 5 years must be sold within 90 days.

The City of Greater Sudbury may directly invest in debt instruments and shares of corporations only in very rare and specific circumstances.

The City is not permitted to invest in any security that is expressed or payable in any currency other than Canadian dollars.

## **INVESTMENT LIMITS**

The portfolio aims for both diversification and near risk-free investments to ensure safety of the capital. Emphasis is placed on securities offered by or unconditionally guaranteed by the Government of Canada, a province or territory of Canada, or the six major Canadian chartered banks (Royal Bank of Canada, Canadian Imperial Bank of Commerce, Bank of Montreal, Bank of Nova Scotia, Toronto Dominion Bank, and National Bank of Canada).

The City may invest with each type of institution to the following limits:

	<u>Maximum % Limit</u>
Federal Government and its Crown Agencies	100%
Provincial Governments and their Crown Agencies	100%
Schedule "I" Banks	100%
Schedule "II" and "III" Banks	30%
Credit Unions and Caisses Populaires	20%
Municipal/School Board Debt Issues	20%
ONE Fund - public sector group of funds	20%
Other	20%

**RESPONSIBILITY AND DELEGATION OF AUTHORITY**

The Chief Financial Officer/Treasurer is responsible for the investment program of the City. Authority to manage and implement the investment program is delegated to the Deputy Treasurer and the Manager of Financial Planning and Policy. A person to whom the authority to implement the investment program is delegated shall be referred to as the municipal investment officer. No person shall engage in an investment transaction except as provided in this policy.

**COMPETITIVE SELECTION**

The purchase and sale of securities will be transacted through a competitive process with financial institutions approved by the Chief Financial Officer/Treasurer. The City will accept the offer that optimizes the investment objectives. A minimum of three quotations will be obtained for each transaction prior to placement of the investment. A record of these quotations shall be kept on file until the investment matures or is sold.

**SIGNING AUTHORITY AND ELECTRONIC INVESTING**

Investments are recommended by the municipal investment officer and approved one of the Deputy Treasurer, Manager of Financial Planning and Policy or the Chief Financial Officer/Treasurer.

In general, with the exception of inter-municipal loans, and investments with the City's banker, investments will be made electronically, using the electronic banking feature, as provided by the City's banker. Multi-level security measures are in place to ensure the safety of the investment.

**SAFEKEEPING AND CUSTODY**

All investment securities will be held for safekeeping in the name of the City at the issuing institution, or in the case of inter-municipal loans, and investment in own debentures, in the City's vault. The issuing institution will issue a safekeeping receipt to the City for each investment transaction that lists all pertinent information. In addition, the issuing institution will provide monthly reports for each account, indicating all investment activity, book value of the holdings, market value as of month-end and income earned by the investments.

**OVERNIGHT INVENTORY**

Excess funds should be invested overnight if the current market rate exceeds the negotiated interest rate on the City's bank account.

**REPORTS**

Reports will be prepared by the municipal investment officer no less frequently than each month-end, and relayed to the Chief Financial Officer / Treasurer, for her review, outlining the investment position and performance of the City of Greater Sudbury.

The Chief Financial Officer / Treasurer will report to Council within 30 days if the City has made an investment that is inconsistent with its adopted investment policies and goals.

Annually, after each year-end, an investment report, in accordance with the regulation, will be forwarded to Council, before the end of March.

# Request for Recommendation Priorities Committee




Type of Decision									
Meeting	October 18, 2006				Report Date	October 11, 2006			
Decision Requested	X	Yes		No	Priority	X	High		Low
	Direction Only				Type of Meeting		Open		Closed

Report Title
Purchasing By-Law 2006

Budget Impact / Policy Implication		Recommendation	
X	This report has been reviewed by the Finance Division and the funding source has been identified.		
		That the draft Purchasing By-Law 2006 be passed and adopted to come into effect on January 1, 2007.	
X	Background Attached		Recommendation Continued

Recommended by the Department	Recommended by the C.A.O.
 Lorella Hayes Chief Financial Officer/City Treasurer	 Mark Mieto Chief Administrative Officer

Report Prepared By	Division Review
 Darryl Mathé Manager of Supplies & Services / Purchasing Agent	

**Executive Summary:**

The purpose of this report is to obtain Council's approval regarding the attached draft of the Purchasing By-Law.

The Purchasing By-Law states that the By-Law shall be reviewed prior to the end of each Council term and any amendment shall be made prior to the inaugural meeting of the next Council. The review shall determine how effective this By-Law has been in achieving the objectives set out in Section 2 of the By-Law as well as the requirements of the Municipal Act 2001 as amended.

**Background:**

Over the last three (3) years, the Purchasing By-Law 2003-300 has been a good working document for City staff and the Business Community. It was shortened in length by excluding procedural detail and was user friendly. It measured up to the key principle underlying all aspects of the procurement function which is to obtain the best value for the taxpayer's dollar while simultaneously treating all suppliers equally.

A committee was struck shortly after the present Purchasing By-Law came into effect on January 1, 2004. It was made up of internal audit, legal and the purchasing agent. The committee met over the three (3) year period to review the present by-law, monitor how it was working, and obtain input from City staff. The following are the recommended changes:

**Prescribed Council Approval:**

- Where an irregularity precludes the Award of a Contract to the bidder submitting the lowest bid and the Total Acquisition Cost exceeds \$35,000 (was \$25,000).
- Any Contract where a Bid Solicitation has been restricted to a single source of supply and the Total Acquisition Cost exceeds \$35,000 (was \$25,000).
- Any contract where the Request for Proposal method is being used and the Total Acquisition Cost exceeds \$200,000 (was \$100,000).
- Purchases requiring purchase order or contract - changed from \$500 to \$1,500.

**Notification of Procurement Opportunities:**

- Changed to \$35,000 (was \$25,000)

A survey was done in Ontario to gather information regarding advertising threshold dollar limits and Requests for Proposal requiring council approval. Please see Table 1.

Input was received from the City's Senior Management and stakeholders and all agreed with the proposed changes.

Met with members of the Sudbury Construction Association and the Sudbury & District Chamber of Commerce and outlined the changes. The response was positive with the Chamber recommending deleting a new proposed clause where a supplier could be excluded from bidding for a period of 2 years for poor performance. It was agreed to delete the clause and the poor vendor service issue will be handled at the prequalification stage.

**TABLE 1**

**Review of Comparable Municipal Procurement Policies for  
Advertising and Requests for Proposals (RFP)**

<b>MUNICIPALITY</b>	<b>COUNCIL APPROVAL REQUIRED FOR RFP IF PRICE EXCEEDS</b>	<b>ADVERTISING IF ESTIMATE PRICE EXCEEDS</b>
Ottawa	No Limit	\$50,000
Oshawa	\$250,000	No Limit
Halton	No Limit	\$50,000
Thunder Bay	\$250,000	\$40,000
Kingston	No Limit if choosing LOW BID	\$50,000
Pickering	\$100,000	\$100,000
North Bay	\$50,000	\$50,000
Oakville	\$250,000	\$100,000
Kitchener	\$100,000	\$100,000
Markham	\$350,000	\$100,000
Hamilton	\$250,000	\$100,000
London	No Limit	\$100,000
Mississauga	No Limit	\$50,000
<b>Proposed CGS By-Law 2006</b>	<b>\$200,000</b>	<b>\$35,000</b>

**Note: The proposed parameter changes are all lower then the majority of municipalities surveyed in Ontario. All expenditures must be within the approved council authorized budget and if not, must be approved by Council.**



**BY-LAW 2006-XXX**

**A BY-LAW OF THE CITY OF GREATER SUDBURY  
GOVERNING PROCUREMENT POLICIES AND  
PROCEDURES**

**TABLE OF CONTENTS**

**Page**

<b><u>PART I - SHORT TITLE</u></b>	<b>3</b>
Section 1	3
<b><u>PART II - PURPOSES, GOALS AND OBJECTIVES</u></b>	<b>3</b>
Section 2	3
<b><u>PART III - DEFINITIONS AND SCHEDULES</u></b>	<b>4</b>
Section 3	4
<b><u>PART IV - GENERAL PROCUREMENT POLICY</u></b>	<b>8</b>
Section 4: APPLICATION	8
Section 5: RESTRICTIONS	10
Section 6: TOTAL ACQUISITION COST	11
Section 7: PRESCRIBED COUNCIL APPROVAL	11
Section 8: RESPONSIBILITIES AND AUTHORITIES	12
Section 9: NOTIFICATION OF PROCUREMENT OPPORTUNITIES	12
<b><u>PART V - PROCUREMENT PROCEDURES</u></b>	<b>13</b>
Section 10: PURCHASING PROCEDURES	13
Section 11: PURCHASING CARDS	13
Section 12: BLANKET PURCHASE ORDERS	14
Section 13: REQUEST FOR EXPRESSION OF INTEREST	14
Section 14: PURCHASING METHODS	14
Section 15: PURCHASES NOT EXCEEDING FIVE HUNDRED (\$500) DOLLARS	15
Section 16: PURCHASES BETWEEN FIVE HUNDRED (\$500) AND TWENTY-FIVE THOUSAND (\$25,000) DOLLARS	15
Section 17: PURCHASES EXCEEDING TWENTY-FIVE THOUSAND (\$25,000) DOLLARS REQUEST FOR TENDER	16

<b>Section 18:</b>	<b>REQUEST FOR PROPOSAL .....</b>	<b>17</b>
<b>Section 19:</b>	<b>IN HOUSE BIDS .....</b>	<b>18</b>
<b>Section 20:</b>	<b>BID DEPOSITS AND PERFORMANCE GUARANTEES .....</b>	<b>18</b>
<b>Section 21:</b>	<b>CONTRACT WITHOUT BUDGETARY APPROPRIATION .....</b>	<b>19</b>
<b>Section 22:</b>	<b>EMERGENCY PURCHASES .....</b>	<b>19</b>
<b>Section 23:</b>	<b>COOPERATIVE PURCHASING .....</b>	<b>19</b>
<b>Section 24:</b>	<b>IDENTICAL TENDERS .....</b>	<b>20</b>
<b>Section 25:</b>	<b>BID IRREGULARITIES .....</b>	<b>20</b>
<b>Section 26:</b>	<b>CONTRACTUAL AGREEMENT .....</b>	<b>20</b>
<b>Section 27:</b>	<b>SURPLUS AND OBSOLETE GOODS .....</b>	<b>21</b>
<b><u>PART VI - OTHER</u></b>	<b>.....</b>	<b>22</b>
<b>Section 28:</b>	<b>ACCESS TO INFORMATION .....</b>	<b>22</b>
<b>Section 29:</b>	<b>BY-LAW REVIEW .....</b>	<b>22</b>
<b>Section 30:</b>	<b>EFFECTIVE DATE .....</b>	<b>22</b>
<b>Section 31:</b>	<b>REPEAL .....</b>	<b>22</b>

**BY-LAW 2006-XXX**

**A BY-LAW OF THE CITY OF GREATER SUDBURY  
GOVERNING PROCUREMENT POLICIES AND  
PROCEDURES**

**WHEREAS** Section 271 of the *Municipal Act, 2001* imposes upon municipalities the obligation to adopt policies with respect to the procurement of Goods and Services;

**AND WHEREAS** this By-law establishes the authority and sets out the methods by which Goods, Services or Construction will be purchased and disposed of for the purposes of the City of Greater Sudbury subject to certain exceptions set out herein;

**AND WHEREAS** the Council of the City of Greater Sudbury has by resolution adopted on October 8th, 2003 authorized the enactment of this By-law and the repeal of By-law 2001-2 and amendments thereto, formerly governing the subject matter of this By-law;

**NOW THEREFORE** the Council of the City of Greater Sudbury enacts as follows:

**PART I - SHORT TITLE**

1. This By-Law may be cited as the "Purchasing By-Law".

**PART II - PURPOSES, GOALS AND OBJECTIVES**

2. The purposes, goals and objectives of this By-law and of each of the methods of procurement authorized are:
  - a) To encourage competition among suppliers;
  - b) To maximize savings for taxpayers;
  - c) To ensure service and product delivery, quality, efficiency and effectiveness;
  - d) To ensure fairness among bidders;

- e) To ensure openness, accountability and transparency while protecting the financial best interests of the City of Greater Sudbury;
- f) To have regard to the accessibility for persons with disabilities to the Goods, Services and Construction purchased by the City of Greater Sudbury;
- g) To have regard to the preservation of the natural environment and to encourage the use of environment friendly Goods, Services and Construction.

### **PART III - DEFINITIONS AND SCHEDULES**

3.-(1) The words and phrases listed below when used in this By-law shall have the following meanings ascribed to them:

**"AGENT"** means the Manager of Supplies and Services / Purchasing Agent of the City of Greater Sudbury or designate;

**"APPROVED INVOICE"** means an original supplier's invoice issued at the time of purchase of low dollar Goods or Services not exceeding \$1,499 and which bears both the signature of an appropriately authorized employee and appropriate account number(s);

**"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 proposal from a supplier in response to a Bid Solicitation;

**"BID DEPOSIT"** means the form of security required by the terms and conditions of Bid Solicitation documentation to guarantee that the successful bidder enters into a Contract with the City of Greater Sudbury, as required by Section 20 of this By-law;

**"BID SOLICITATION"** means a formal request for competitive Bids that may be in the form of a Tender or Request for Proposal;

**"BLANKET PURCHASE ORDER"** means a Contract for repetitive required Goods or Services for a specified period of time, when convenience and location are significant factors in determining Total Acquisition Cost and the quantity and demand are unknown.

**"CHIEF ADMINISTRATIVE OFFICER"** means the Chief Administrative Officer of the City of Greater Sudbury, or designate;

**"CHIEF FINANCIAL OFFICER / TREASURER"** means the Chief Financial Officer / Treasurer of the City of Greater Sudbury or designate.

**"CHIEF OF POLICE"** means the Chief of Police as appointed by The Greater Sudbury Police Services Board pursuant to the *Police Services Act*, or designate;

**"CITY SOLICITOR"** means the City Solicitor of the City of Greater Sudbury, or designate;

**"CONSTRUCTION"** means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, soil investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering design or architectural work, but does not include professional services related to the construction contract unless they are included in the specifications for the procurement;

**"CONTRACT"** means any agreement, regardless of form or title, for the lease, purchase or disposal of Goods, Services or Construction authorized in accordance with this By-law;

**"COUNCIL"** means the Council of the City of Greater Sudbury;

**"COUNCIL APPROVED BUDGETS"** means Council approved department budgets including authorized revisions, or where applicable, Council approved budgets of local

boards or utilities to which this By-law applies;

**"DEPARTMENT"** means an organizational unit of the City of Greater Sudbury headed by a General Manager, the Executive Director of Administrative Services, Director of Human Resources or the Chief Financial Officer;

**"DIRECTOR OF HUMAN RESOURCES"** shall mean the Director of Human Resources of the City of Greater Sudbury, or designate;

**"ELECTRONIC ADVERTISING"** means the use of a computer based system directly accessible by suppliers irrespective of their location that provides suppliers with information related to Bid Solicitations;

**"EMERGENCY"** means a situation, or the threat of an impending situation, which may affect the environment, the life, safety, health and/or welfare of the general public, or the property of the residents of the City of Greater Sudbury, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level;

**"FAIR MARKET VALUE"** means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arms-length where fully informed and not under any compulsion to transact;

**"GENERAL MANAGER"** means the person responsible for the operation of a Department and/or their designate and includes the person appointed to the positions of Chief Administrative Officer, Director of Human Resources, Executive Director of Administrative Services, and Chief Financial Officer / Treasurer;

**"GOODS"** means moveable property including,

- (a) the cost of installing, operating, maintaining or manufacturing such moveable property;
- (b) raw materials, products, equipment and other physical objects of every kind and description;

**"IN HOUSE BID"** means a Bid made by a Department and authorized by the General Manager of that Department, submitted in response to a Bid Solicitation, where the

provision of the Goods, Services or Construction will be provided entirely by the employees of the City of Greater Sudbury;

**"LEASE FINANCING POLICY"** means the policy passed by Council under the authority of the Municipal Act, 2001, S.O. c.25, section 110;

**"LOWEST COMPLIANT BID"** means the Bid that would provide the City of Greater Sudbury with the desired Goods, Services or Construction at the lowest Total Acquisition Cost, meets all the specifications and contains no irregularities requiring automatic rejection;

**"PROFESSIONAL SERVICES"** means persons having a specialized knowledge or skill for a defined Service requirement including,

- (a) architects, engineers, designers, management and financial consultants;  
and
- (b) firms or individuals having specialized competence in environmental, planning or other disciplines;

**"PROPOSAL"** means an offer submitted in response to a Request for Proposal, acceptance of which may be subject to further negotiation;

**"PURCHASE ORDER"** means a Contract between the City of Greater Sudbury and a supplier to supply specific Goods or specific Services or a specific type of Construction defined by such things as quantity, time period, location(s) and price, and includes a Blanket Purchase Order;

**"PURCHASING CARD"** means a card issued in accordance with the Purchasing Card Policy, to purchase Goods and Services;

**"REQUEST FOR PROPOSAL"** means a Bid Solicitation that is used to acquire Goods, Services or Construction, on variable terms the suitability of which is determined upon multiple factors and which may result in further direct negotiation with one or more bidders;

**"RISK MANAGEMENT/ INSURANCE OFFICER"** shall mean the Risk Management/ Insurance Officer of the City of Greater Sudbury or designate;

**"SERVICES"** includes all professional and consulting services, all services in relation to real property or personal property including, without limiting the foregoing, the delivery, installation, construction, maintenance, repair, restoration, demolition or removal of personal property and real property and all other services of any nature and kind save and except only services to be delivered by an officer or employee of the City of Greater Sudbury in accordance with terms of employment;

**"TENDER"** means a Bid Solicitation used to acquire known Goods, Services or Construction in accordance with specified terms and which is normally awarded to the Lowest Compliant Bid;

**"TOTAL ACQUISITION COST"** means an evaluation of quality and service in the assessment of a Bid and the sum of all costs including purchase price, all taxes, warranties, local service costs, life cycle costs, time of completion or delivery, inventory carrying costs, operating and disposal costs for determining the Lowest Compliant Bid;

**"VENDOR OF RECORD ARRANGEMENT"** means a procurement arrangement resulting from a competitive Bid Solicitation that authorizes one or more suppliers to offer specific Goods or Services for a defined time period, with terms and conditions and pricing set out in a Contract.

- (2) Schedules A, B and C attached hereto form part of this By-law.

#### **PART IV - GENERAL PROCUREMENT POLICY**

##### **APPLICATION**

**4.-(1)** The procedures in this By-law shall be followed to Award a Contract or to recommend to Council that a Contract be Awarded.

(2) Subject to section 27 and section 4(3), a General Manager may purchase or contract for the Goods and Services listed in Schedule "A" to this By-law without following the procedures set out herein.

(3) The procurement of legal services shall be contracted for by the City Solicitor, the Director of Human Resources, or by the Chief of Police.



(4) The purchase of Goods and Services listed in Schedule "A" to this By-law may be made provided that sufficient funds are available and identified in appropriate accounts within Council Approved Budgets.

(5) The following local boards and corporations are bound by this By-law and this By-law shall apply with necessary modification to such local boards and corporations:

Greater Sudbury Police Services Board  
Greater Sudbury Public Library Board  
City of Greater Sudbury Development Corporation  
Sudbury Community Development Corporation  
Sudbury Airport Community Development Corporation

(6) For all purposes of this By-law and this Section, all references to Council shall mean the governing body of each of the following local boards and corporations:

Greater Sudbury Police Services Board  
Greater Sudbury Public Library Board  
City of Greater Sudbury Development Corporation  
Sudbury Community Development Corporation  
Sudbury Airport Community Development Corporation

(7) For all purposes of this By-law and this Section, all references to the Chief Administrative Officer and General Managers of the City shall mean the following persons associated with the relevant local board and corporation:

Greater Sudbury Police Services Board: Chief of Police or designate;  
Greater Sudbury Public Library Board: General Manager of Community Development or designate;  
City of Greater Sudbury Development Corporation: General Manager of Growth and Development or designate;  
Sudbury Community Development Corporation: General Manager of Growth and Development or designate;

Sudbury Airport Community Development Corporation :Chief Executive  
Officer of Airport Services or designate;

## **RESTRICTIONS**

**5.-(1)** No Contract for Goods, Services or Construction may be divided into two or more parts to avoid the application of the provisions of this By-law.

(2) No Contract for Services shall be Awarded where the services would result in the establishment of an employee - employer relationship.

(3) No employee shall purchase, on behalf of the City of Greater Sudbury, any Goods, Services or Construction, except in accordance with this By-law.

(4) Where an employee involved in the Award of any Contract, either on his or her own behalf or while acting for, by, with or through another person, has any pecuniary interest, direct or indirect, in the Contract, the employee,

(a) shall immediately disclose the interest to the General Manager involved in the Award of the Contract and shall describe the general nature thereof;

(b) shall not take part in the Award of the Contract; and

(c) shall not attempt in any way to influence the Award of the Contract.

(5) An employee has an indirect pecuniary interest in any Contract in which the City of Greater Sudbury is concerned, if,

(a) the employee or his or her spouse or same-sex partner

(i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public that has a pecuniary interest in the Contract,

(ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public that has a pecuniary interest in the Contract, or

(iii) is a member of an unincorporated association or partnership, that has a pecuniary interest in the matter; or

(b) the employee or his or her spouse or same-sex partner is in the employment of a person, unincorporated association or partnership that has a pecuniary interest in the Contract.

(6) All Council members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended.

(7) All persons who provide or prepare on behalf of the City contract specifications for Goods, Services or Construction and which Goods, Services or Construction are intended to be the subject matter of a Bid Solicitation, shall not be permitted to submit a Bid in response to the Bid Solicitation for the said Goods, Services or Construction.

**5.1** In circumstances where a bidder has withdrawn its Bid after Bids have been opened in response to a Bid Solicitation the Agent and the General Manager in charge of the Bid Solicitation may by written notice exclude such bidder or supplier from bidding upon further Contracts to supply Goods, Services or Construction to the City for a period up to two years from the date of the notice. This prohibition shall be in addition to and not in substitution for the forfeiture of any Bid Deposit or security or other remedy that may be available to the City.

#### **TOTAL ACQUISITION COST**

**6.** Where this By-law prescribes dollar limits, the Contract amount shall be the estimated Total Acquisition Cost less any rebates.

#### **PRESCRIBED COUNCIL APPROVAL**

**7(1).** Despite any other provisions of this By-law, the following Contracts are subject to Council approval:

- (a) any Contract requiring approval from the Ontario Municipal Board;
- (b) any Contract where the Total Acquisition Cost is greater than the Council Approved Budget;
- (c) where an irregularity precludes the Award of a Contract to the bidder submitting the lowest bid and the Total Acquisition Cost exceeds \$35,000;

- (d) any Contract where a Bid Solicitation has been restricted to a single source of supply and the Total Acquisition Cost of such Good, Service or Construction exceeds \$ 35,000;
  - (e) any Contract where the Request for Proposal method of purchase of Goods, Services or Construction is being used and the estimated value of the Goods, Services or Construction exceeds \$200,000;
  - (f) when any Contract is required in accordance with the City of Greater Sudbury's Lease Financing Policy.
- (2) In circumstances where Council has approved a Contract for the acquisition of a Good, Service or Construction where a Bid Solicitation has been restricted to a single source of supply, the maximum term of such Contract shall be five years.
- (3) Approval by Council of the Contracts referred to in this Section shall be by Resolution.

## **RESPONSIBILITIES AND AUTHORITIES**

**8.(1)** General Managers for and shall have authority and be accountable for all procurement activity and decisions within their Departments. General Managers may delegate their authority, where appropriate.

**(2)** The Agent shall be responsible to respond to concerns and questions relating to procurement policies and procedures.

## **NOTIFICATION OF PROCUREMENT OPPORTUNITIES**

**9.-(1)** Bid Solicitation for Goods, Services or Construction exceeding an estimated Total Acquisition Cost of \$35,000 (excluding G.S.T.) shall be done by Electronic Advertising and may be used for any other purchase.

**(2)** Notification of procurement opportunities for Goods, Services or Construction may be supplemented by other means of notification where appropriate.

## **PART V - PROCUREMENT PROCEDURES**

### **PURCHASING PROCEDURES**

**10.-(1)** The Agent shall establish purchasing procedures consistent with the Purposes, Goals and Objectives set out in this By-law relating to:

- (a) the form, content and use of forms, whether electronic or printed, including requisitions, purchase orders, bonds, letters of credit and other forms of guarantee or surety, tender, proposal and other contract documents;
- (b) the identification of those Goods, Services or Construction which, are more effectively acquired through cooperative purchasing or Vendor of Record Arrangement;
- (c) the process to be followed in the issuing, receipt and evaluation of Tenders and Requests for Proposals including the option of submitting documentation, payment or signature by electronic means pursuant to the *Electronic Commerce Act*, S.O. 2000, c.17, as amended;
- (d) any other aspect of process or procedure not specifically provided for in this By-law.

(2) Where, in the opinion of the Agent, circumstances giving rise to an issue of adherence or non-adherence to the requirements of this By-law which cannot be resolved to the satisfaction of the Agent, the Agent shall advise the Chief Financial Officer who shall have the authority to determine the appropriate action.

### **PURCHASING CARDS**

**11.** The Agent is responsible for the Purchasing Card program outlined in the City of Greater Sudbury's Purchasing Card Policy. The Purchasing Card Policy shall adhere to this Purchasing By-law.

## **BLANKET PURCHASE ORDERS**

**12.-(1)** A Blanket Purchase Order may be used where:

- (a) one or more Departments repetitively order the same Goods, Services or Construction; or
- (b) a need is anticipated for a range of Goods, Services or Construction for a specific purpose and for which convenience and location are major factors but the actual demand is not known at the outset.

(2) The Agent shall establish and maintain Blanket Purchase Orders.

(3) To establish prices and select sources, the Agent shall employ the provisions contained in this by-law for the acquisition of Goods, Services or Construction.

(4) More than one supplier may be selected where it is in the best interests of the City of Greater Sudbury and the Bid Solicitation allows for more than one.

(5) The expected quantity of the specified Goods, Services or Construction to be purchased over the time period of the agreement will be as accurate an estimate as practical and be based, to the greatest extent possible, on previous usage adjusted for any known factors.

## **REQUEST FOR EXPRESSIONS OF INTEREST**

**13.** A General Manager may through the Agent conduct a request for expression of interest for the purposes of determining the availability of suppliers of any Goods, Services or Construction and for the purposes of keeping a list of available suppliers.

## **PURCHASING METHODS**

**14.** The purchasing methods for the purchase of Goods, Services or Construction are listed in Schedule "B".

**PURCHASES NOT EXCEEDING ONE THOUSAND FOUR HUNDRED AND NINETY-NINE (\$1,499) DOLLARS**

**15.-(1)** The Treasurer/Director of Finance shall have authority to establish petty cash funds in such an amount to meet the requirements of a Department for the acquisition of Goods, Services or Construction having an individual Total Acquisition Cost of ~~\$500~~ \$1, 499 or less.

(2) Purchases made pursuant to this Section shall be made from the competitive market place wherever possible and may be made by using an Approved Invoice, Petty Cash, a Purchasing Card or a Purchase Order, subject to Section ~~27~~ 26.

(3) All petty cash fund disbursements shall be evidenced by vouchers and shall be available for auditing purposes through the Treasurer/Director of Finance.

**PURCHASES BETWEEN ONE THOUSAND FIVE HUNDRED (\$1,500) AND THIRTY-FIVE THOUSAND DOLLARS (\$35,000).**

**16.-(1)** Purchasing requirements for Goods, Services or Construction having an estimated Total Acquisition Cost between \$500 and \$35,000 may be made by using either a Purchasing Card or Purchase Order, subject to Section 26.

(2) Single purchases of Goods, Services or Construction using a Purchasing Card shall not exceed \$5,000, unless approved by the Agent.

(3) In appropriate circumstances, the Request for Proposal or the Request for Tender processes may be utilized for the purchase of Goods, Services or Construction in this Total Acquisition Cost range.

(4) General Manager shall demonstrate that the selection process used to purchase the Goods, Services or Construction in this Total Acquisition Cost range shall demonstrate that Fair Market Value was achieved.

**PURCHASES EXCEEDING THIRTY-FIVE THOUSAND \$35,000 DOLLARS  
REQUEST FOR TENDER**

**17.-(1)** A Request for Tender shall be used for purchases exceeding where all of the following criteria apply:

- (a) two or more sources are considered capable of supplying the requirement;
  - (b) the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria; and
  - (c) it is intended that the Lowest Compliant Bid will be accepted without negotiations.
- (2) The General Manager in charge of the Bid Solicitation or the Agent, on behalf of such General Manager, may Award Contracts emanating from a Request for Tender provided that
- (a) the Award is to the Lowest Compliant Bidder;
  - (b) sufficient funds are available and identified in appropriate accounts within Council Approved Budgets; and
  - (c) the provisions of this By-law are complied with.
- (3) The General Manager or Agent shall follow the provisions of Section 26 regarding the form of contract required to complete the purchase.
- (4) Where Bids are received in response to a Bid Solicitation but exceed project estimates, the General Manager in charge of the Bid Solicitation and the Agent, jointly, may enter negotiations with the Lowest Compliant Bidder to achieve an acceptable Bid within the project estimate.
- (5) Negotiations shall be conducted in accordance with the guidelines established by the Canadian Construction Documents Committee, as applicable.



## **REQUEST FOR PROPOSAL**

**18.-(1)** A Request for Proposal shall be used where one or more of the criteria for issuing a Request for Tender cannot be met such as:

- (a) owing to the nature of the requirement, suppliers are invited to propose a solution to a problem, requirement or objective and the selection of the supplier is based on the effectiveness of the proposed solution rather than on price alone; or
  - (b) it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement.
- (2) Where the Contract price is anticipated to be \$200,000 or greater and the Request for Proposal method of procurement is utilized, the Agent shall be a member of the committee formed to evaluate the response to the Request for Proposal.
- (3) Every Request for Proposal shall contain an explanation of the criteria which will be used to evaluate proposals.
- (4) The General Manager in charge of the particular Bid Solicitation or the Agent, on behalf of such General Manager, may Award Contracts emanating from a Request for Proposal provided that:
- (a) the estimated Total Acquisition Cost of the Goods, Services or Construction does not exceed \$200,000;
  - (b) the Award is to be made to the supplier meeting all mandatory requirements and determined, by reference to the evaluation criteria, as providing best value;
  - (c) sufficient funds are available and identified in appropriate accounts within Council Approved Budgets; and
  - (d) the provisions of this By-law are complied with.
- (5) The General Manager and Agent shall follow the provisions of Section 26 regarding the form of contract required to complete the purchase.

## **IN HOUSE BIDS**

**19.** In House Bids may be used for the procurement of Goods, Services or Construction in circumstances where the Chief Administrative Officer considers it appropriate to do so.

## **BID DEPOSITS AND PERFORMANCE GUARANTEES**

**20.-(1)** The Agent may require that a Bid be accompanied by a Bid Deposit or other similar security to guarantee entry into a Contract.

(2) Prior to the commencement of the work, the successful bidder may be required to provide the following security in addition to the security referred to in Subsection 20.-(1):

- (a) a performance bond to guarantee the performance of a Contract, and
- (b) a payment bond to guarantee the payment for labour and materials to be supplied in connection with a Contract.

(3) The Agent shall select the appropriate means to guarantee execution and performance of the Contract. Means may include one or more of, but are not limited to, certified cheque, bank draft, irrevocable letter of credit, money order and, where appropriate, a bid bond issued by an approved guarantee company properly licensed in the province of Ontario, on bond forms acceptable to the City of Greater Sudbury.

(4) Prior to the commencement of work, evidence of insurance coverage satisfactory to the Risk Management/ Insurance Officer must be obtained, ensuring indemnification of the City of Greater Sudbury from any and all claims, demands, losses, costs or damages resulting from the performance of a Bidder's obligations under the Contract and from any other risk determined by the Risk Management/Insurance Officer as requiring coverage.

(5) Prior to payment to a supplier, a Certificate of Clearance from the Workplace Safety and Insurance Board shall be obtained ensuring all premiums or levies have been paid to the Workplace Safety and Insurance Board to the date of payment.

## **CONTRACT WITHOUT BUDGETARY APPROPRIATION**

**21.** Where a requirement exists to initiate a project for which Goods, Services or Construction are required and funds are not contained within the Council Approved Budget to meet the proposed expenditure, the General Manager shall, prior to commencement of the purchasing process, submit a report to Council containing:

- (a) information surrounding the requirement to contract;
- (b) the terms of reference to be provided in the Contract;
- (c) information on the availability of the funds within existing estimates, which were originally approved by Council for other purposes, or on the requirement of additional funds.

## **EMERGENCY PURCHASES**

**22.-(1)** Where an Emergency exists requiring the immediate procurement of Goods, Services or Construction, a General Manager or the Agent may purchase the required Goods, Services or Construction by the most expedient and economical means, notwithstanding any other provision of this By-Law. As soon as practicable thereafter, the Agent shall comply with Section 26 of this By-law.

(2) For all Emergency purchases made by a General Manager, the General Manager shall as soon after the purchase as reasonably possible, notify the Agent with a written report detailing the circumstances of the Emergency. A report to Council shall be made by the General Manager or the Agent in all circumstances where the Emergency purchase exceeds \$35,000.

## **COOPERATIVE PURCHASING**

**23-(1)** The City of Greater Sudbury may participate with other government agencies or public authorities in cooperative purchasing where it is in the best interests of the City of Greater Sudbury to do so and where the purposes, goals and objectives of this By-law are complied with by such government agencies and public authorities.

(2) The policies of the government agencies or public authorities calling the cooperative Bid Solicitation are to be the accepted policy for that particular purchase.

### **IDENTICAL TENDERS**

**24-(1)** If the Lowest Compliant Bids from two or more bidders are identical in Total Acquisition Cost or unit price, the Agent, with the consent of the General Manager in charge of the Bid Solicitation, is authorized to enter into negotiations with the bidders who have submitted the identical prices in an attempt to obtain a lesser price and shall maintain a record in respect of such negotiations.

(2) The Agent shall not reveal information pertaining to such negotiations or the manner in which the final price was determined to any of the bidders concerned. The Agent shall include as part of the record, a report concerning the results of such negotiations.

(3) When negotiations are not successful in breaking the identical tenders, then the successful bidder shall be determined by coin toss. The coin toss shall be performed in the presence of the General Manager in charge of the Bid Solicitation, the Agent and the Director of Legal Services, or their designate(s).

### **BID IRREGULARITIES**

**25.** The process for administering irregularities contained in Bids pertaining to all Contracts shall be as set out in Schedule "C". For an irregularity listed in the first column of Schedule "C", the applicable response is set out opposite to the irregularity in the second column of Schedule "C".

### **CONTRACTUAL AGREEMENT**

**26.-(1)** The Award of a Contract over \$ 1,500 shall be made by way of a written agreement, or as a Purchase Order.

(2) A Purchase Order is to be used when the resulting Contract requires only the City of Greater Sudbury's standard contractual terms and conditions.

(3) A formal agreement is to be used when the resulting Contract is complex and will contain terms and conditions other than the City of Greater Sudbury's standard contractual terms and conditions.

(4) It shall be the responsibility of the General Manager in charge of the particular Bid Solicitation, with the Agent and/or the City Solicitor, to determine if it is in the best interests of the City of Greater Sudbury to establish a formal agreement with the supplier.

(5) Where it is determined that a formal agreement is required, the formal agreement shall be reviewed and approved for execution by the City Solicitor.

(6) Where a formal agreement is required, the General Manager shall execute the agreement in the name of City of Greater Sudbury.

(7) Where a formal agreement is issued, the Agent may issue a Purchase Order incorporating the formal agreement.

(8) Where a formal agreement is not required, the Agent shall issue and execute a Purchase Order incorporating the relevant terms and conditions.

## **SURPLUS AND OBSOLETE GOODS**

**27-(1)** The Agent must dispose of all Goods for which a Department no longer has use and the Agent may use any method for disposal in the City of Greater Sudbury's best interests, including without limitation, public auction, public tender, trade, negotiated sale or transfer to another Department.

(2) An employee who has the responsibility of declaring Goods surplus or obsolete, or for sending items to a public auction shall not bid on or personally obtain any Goods that the employee has declared as surplus.

(3) No Council Member or employee shall be permitted to receive surplus or obsolete Goods except by purchase at public auction, public tender, trade or advertised sale.

**PART VI - OTHER**

**ACCESS TO INFORMATION**

**28.** The disclosure of information received relevant to the issue of Bid Solicitations or the Award of Contracts emanating from Bid Solicitations shall be in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, as amended.

**BY-LAW REVIEW**

**29.-(1)** This By-law shall be reviewed prior to the end of each Council term and any amendment thereto shall be made prior to the inaugural meeting of the next Council.

(2) The review shall determine how effective this By-law has been in achieving the objectives set out in Section 2 of the By-law as well as the requirements of the *Municipal Act, 2001*, as amended.

(3) The review may be undertaken by an ad-hoc committee of Council, the final result of which shall be comprised of a report to Council, by the Agent.

**EFFECTIVE DATE.**

**30.** This By-law shall come into force and take effect on the 1st day of January, 2007.

**REPEAL**

**31.** By-law 2003-300 and all amendments thereto are hereby repealed on the effective date of this By-law.

**READ THREE TIMES AND PASSED IN OPEN COUNCIL** this \_\_\_\_\_ day  
of \_\_\_\_\_ 2006.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

**SCHEDULE "A"**

to By-Law 2006- of the City of Greater Sudbury

**Page 1 of 1**

The purchasing methods described in this by-law do not apply to the following Goods and Services:

1. Training and Education
  - (1) Registration and Tuition fees for conferences, conventions, courses and seminars
  - (2) Magazines, books and periodicals unless the purchase of such magazines books and periodicals are subject to value-added services
  - (3) Memberships
2. Refundable Employee/Councillor Expenses
  - (1) Advances
  - (2) Meal Allowances
  - (3) Travel and Entertainment
  - (4) Miscellaneous - Non-Travel
3. Employer's General Expenses
  - (1) Payroll Deductions Remittances
  - (2) Medical
  - (3) Licenses (Vehicle, Firearms, etc.)
  - (4) Debenture Payments
  - (5) Grants to Agencies
  - (6) Damage Claims
  - (7) Petty Cash Replenishment
  - (8) Tax Remittances
4. Professional and Special Services
  - (1) Committee Fees
  - (2) Legal fees and other Professional Services related to litigation or legal matters
  - (3) Funeral and Burial expenses
  - (4) Witness fees
  - (5) Contracts related to the provision of "controlled acts" by persons "governed by a health profession Act", as those expressions are used in the *Regulated Health Professions Act*, S.O. 1991, c.18, as amended
  - (6) Veterinary Expenses
6. Utilities
7. Advertising services required by the City on or in but not limited to radio, television, newspaper and magazines
8. Bailiff or collection agencies

**SCHEDULE "B"**

to By-Law 2006-xxx of the City of Greater Sudbury

**Page 1 of 1**

**PURCHASING METHODS**

<b>Procedure</b>	<b>Cost of Goods or Service</b>
Approved Invoice or Petty Cash or Purchase Order (including Blanket Purchase Order) or Purchasing Card	\$1,499 or less (Section 15)
Written Contract including but not limited to Purchase Order (including Blanket Purchase Order) or Purchasing Card or Request for Proposal or Request for Tender	\$1,500 to \$35,000 (Section 16)
Agreement, Request for Tender or Request for Proposal	\$35,000 or more (Sections 17 and 18)

Draft



**SCHEDULE "C"**

to By-Law 2003-300 of the City of Greater Sudbury  
As amended by By-law 2004-2

**Page 1 of 2**

	<b>IRREGULARITY</b>	<b>RESPONSE</b>
1	Late Bid.	Automatic rejection and not opened or read publicly.
2	Unsealed Envelope.	Automatic rejection.
3	No Bid Security or agreement to bond or insufficient Bid Deposit or agreement to bond.	Automatic rejection.
4	Bids completed and/or signed in erasable medium.	Automatic rejection.
5	All required sections of Bid documents not completed.	Automatic rejection unless, in the consensual opinion of the Agent, General Manager in charge of the Bid Solicitation and the City Solicitor, the incomplete nature is trivial or insignificant.
6	Qualified Bids (Bids qualified or restricted by an attached statement).	Automatic rejection unless, in the consensual opinion of the Agent, General Manager in charge of the Bid Solicitation and the City Solicitor, the qualification or restriction is trivial or not significant.
7	Bids received on documents other than those provided or specified by the City.	Automatic rejection.
8	Bids Containing Clerical Errors, which are trivial or insignificant.	48 hours to correct and initial errors. The determination of what constitutes trivial or insignificant errors shall be made in the consensual opinion of the Agent, General Manager in charge of the Bid Solicitation and the City Solicitor
9	Failure to execute Agreement to Bond (Surety's Consent) or Bonding company corporate seal or signature missing from Agreement to Bond.	Automatic rejection.
10 (a)	Failure to execute Bid Bond by Bidder and Bonding Company.	Automatic rejection.
(b)	Corporate seal of the Bidder and Bonding Company, missing.	48 hours to correct.
11	Documents - Execution	
(a)	Corporate seal or signature missing; signatory's authority to bind the corporation or signature missing.	48 hours to rectify situation.
(b)	Corporate seal and signature missing; signatory's authority to bind the corporation and signature missing.	Automatic rejection.

**SCHEDULE "C"**

to By-Law 2003-300 of the City of Greater Sudbury  
As amended by By-law 2004-2

**Page 2 of 2**

	<b>IRREGULARITY</b>	<b>RESPONSE</b>
12	Erasures, Overwriting or Strike-Outs which are not initialled:	
(a)	uninitialled changes to the Tender documents, other than unit prices, which are trivial or not significant;	48 hours to initial. The determination of what constitutes trivial or insignificant uninitialled changes shall be made in the consensual opinion of the Agent. General Manager in charge of the Bid Solicitation and the City Solicitor.
(b)	unit prices in the Schedule of Prices have been changed but not initialled and the Contract totals are consistent with the price as changed;	48 hours to initial change in unit price. The determination of what constitutes trivial or insignificant uninitialled changes shall be made in the consensual opinion of the Agent, General Manager in charge of the Bid Solicitation and the City Solicitor.
(c)	unit prices in the Schedule of Prices which have been changed but not initialled and the Contract totals are inconsistent with the price as changed;	Automatic rejection.
13	Mathematical errors which are not consistent with unit prices.	48 hours to initial corrections as made by the Supplies and Services Division.
14	Bids, in which all necessary Addenda, which have financial implication, have not been acknowledged.	Automatic rejection.
15	Any other irregularities.	The Agent, General Manager in charge of the Bid Solicitation and the City Solicitor acting in consensus shall have authority to waive other irregularities or grant 48 hours to initial such other irregularities, which they jointly consider to be trivial or insignificant.