

CITY OF GREATER SUDBURY  
BY-LAW 2014-1

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

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## By-law 2014-1

### A By-Law of the City of Greater Sudbury Governing Procurement Policies and Procedures

**Whereas** Section 270(1) of the *Municipal Act, 2001* imposes upon municipalities the obligation to adopt policies with respect to the procurement of Goods, Services and Construction;

**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;

**Now Therefore the Council of the City of Greater Sudbury hereby 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; and,
- (g) to have regard to the preservation of the natural environment and to encourage the use of environmentally friendly Goods, Services and Construction.

#### **Part III – Interpretation**

##### **Schedules**

- 3.-(1) Schedules "A" and "B" attached hereto form part of this By-law.

(2) References herein to position titles shall be understood to refer to those individuals employed in such positions by the City.

(3) All references to amounts herein and in any Bid Solicitation shall be in Canadian dollars unless expressly stated otherwise.

- (4) References herein to the singular shall include the plural and references to the plural shall include the singular, as the context requires.

- (5) References herein to amounts shall be references to the Total Acquisition Cost unless otherwise stated.

## Definitions

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

**“Agent”** means the Chief Procurement Officer for the City and references herein include his or her authorized designates;

**“Annual Acquisition Cost”** means that portion of the Total Acquisition Cost that relates to the current year;

**“Applicable Trade Agreements”** means those trade agreements which apply to the City and includes without limitation: the Trade and Cooperation Agreement between Ontario and Quebec (TCAOQ), the Canadian Free Trade Agreement (CFTA) and the Comprehensive Economic and Trade Agreement (CETA);

**“Approved Invoice”** means a Supplier’s original invoice issued at the time of purchase of Goods or Services not exceeding \$4,999 and which bears both the signature of an Authorized Person and appropriate account number(s);

**“Authorized Person”** means an Employee of the City, inclusive of ELT Members, to whom purchasing authority up to a certain dollar amount has been delegated pursuant to the Purchasing Authority Policy and for the application of this By-law to local boards and corporations shall mean persons authorized to conduct purchasing activities by the governing body for those local boards and corporations, respectively;

**“Award”**, **“Awarded”** and **“Awarding”** mean approval by an Authorized Person or the Agent on behalf of an Authorized Person to proceed with the purchase of Goods, Services or Construction from a Supplier;

**“Best Value”** means the optimal balance of performance and cost determined in accordance with a pre-defined evaluation plan;

**“Bid”** means an offer or Proposal from a Supplier in response to a Bid Solicitation, and includes a Request for Pre-Qualification for the application of this By-law;

**“Bidder”** means a person that submits a Bid in response to a Bid Solicitation or a Request for Pre-Qualification;

**“Bid Deposit”** means the form of security required by the terms and conditions of a procurement to guarantee that the Bidder enters into a Contract with the City;

**“Bid Solicitation”** means a formal request for competitive Bids that may be in the form of a Request for Tender or Request for Proposal;

**“City”** means the municipal corporation of the City of Greater Sudbury or the geographic area of the City of Greater Sudbury as the context requires;

**“Construction”** means the 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 an agreement, including a Purchase Order; regardless of form or title, for the lease, purchase or disposal of Goods, Services or Construction authorized in accordance with this By-law;

**“Contract Amendment”** means any change made to an existing Contract and without limiting the generality of the foregoing includes a change order;

**“Contract Award”** means the Award and execution of a Contract by the City and a Supplier resulting from Bid Solicitations, Non-Competitive Purchases, purchases from a Standing Offer arrangement, cooperative purchases, and Emergency purchases.

**“Contract Award Report”** means an annual information report provided to Council as required by Section 8(2).

**“Council”** means the City Council for the City of Greater Sudbury (see Subsection 5(4) for application of this defined term to local boards and corporations to which this By-law applies);

**“Council Approved Budgets”** means Council approved department budgets including authorized revisions pursuant to existing policies respecting operating and capital budgets as amended or replaced from time to time, or where applicable, the approved budgets of local boards or corporations to which this By-law applies;

**“Department”** means an organizational unit of the City of Greater Sudbury headed by an ELT Member;

**“Electronic Advertising”** means the use of a computer based system directly accessible by Suppliers irrespective of their location that provides information related to Bid Solicitations;

**“Electronic Bidding”** means the online system by which the City issues Bid Solicitations and receives Bids;

**“Emergency”** means a situation, or the threat of an impending situation, that may affect the environment, life, safety, health and/or welfare of the general public, may affect the property of the residents of the City, may result in serious damage or disruption of work or requires restoration or maintenance of essential service to a minimum level;

**“Employee”** means a person employed by the City;

**“Executive Leadership Team Member”** or **“ELT Member”** means the person responsible for the operation of a Department and includes the person appointed to or holding the positions of: Chief Administrative Officer; General Manager of Community Development; General Manager of Community Safety; General Manager of Corporate Services; General Manager of Growth and Infrastructure; or their designates, and for the purposes of this By-law, ELT Members shall also include the Auditor General;

**“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;

**“Goods”** means moveable property including,

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

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

**“Lowest Compliant Bid”** means the Bid received on a Request for Tender that would provide the City with the desired Goods, Services or Construction at the lowest Total Acquisition Cost, meets all the specifications and contains no irregularities requiring automatic rejection;

**“Multi-Use List”** means a list of pre-qualified Suppliers maintained by the City who satisfy the conditions for participation on the list, and that the City intends to use more than once;

**“Multi-Year Contract”** means a Contract for Goods, Services or Construction which has a duration longer than one year;

**“Non-Competitive Purchase”** means a purchase pursuant to Section 22 that is not competitively procured but shall not include purchases made on Standing Offers where made in accordance with Section 19;

**“Person”** includes any individual, firm, partnership, association, corporation, company or other organization with the legal ability to enter into contractual relations.

**“Petty Cash”** means monetary amounts provided to Departments to be used for Purchases generally not to exceed an amount of \$100.00;

**“Professional Services”** means persons having a specialized knowledge or skill for a defined Service requirement including,

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

**“Proponent”** means a person that submits a Proposal in response to a Request for Proposal;

**“Proposal”** means a submission in response to a Request for Proposal;

**“Purchase Order”** means a Contract between the City and a Supplier to supply specific Goods, Services or Construction defined by such things as quantity, time period, location(s) and price;

**“Purchasing Authority Policy”** means the Purchasing Authority Policy approved by the Executive Leadership Team which describes the purchasing authority delegated to Authorized Persons, as amended from time to time;

**“Procurement Card”** means a credit card issued in accordance with the Procurement Card Policy to purchase Goods and Services;

**“Quotation Procedure”** means an informal procurement method that involves the solicitation of written quotes from Suppliers without formal advertising or receipt of sealed or electronic Bids;

**“Request for Pre-qualification”** means a process where information is requested from Suppliers to determine whether or not the Supplier has the capability in all respects to perform the Contract requirements. The Request for Pre-qualification process is initiated before a Request for Tender or Request for Proposal is issued and only prequalified Suppliers are eligible to submit a Bid on such Bid Solicitations

**“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;

**“Request for Tender” or “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;

**“Revenue Generating Contract”** means a Contract that results in amounts being paid to the City in exchange for the City allowing a third party to operate a City facility, in whole or in part, or providing a Service on City property, with City property or for City purposes but does not include fees set out in City bylaws or the leasing or disposition of real property;

**“Services”** includes Professional 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;

**“Single Source”** means a Non-Competitive Purchase to acquire Goods, Services or Construction from a specific Supplier even though there may be more than one Supplier capable of delivery of the same Goods Services and/or Construction;

**“Sole Source”** means a Non-Competitive Purchase of Goods, Services or Construction where there is only one source that meets the requirements of the City;

**“Standing Offer”** means an arrangement that allows the City to purchase repetitively ordered Goods, Services or Construction from Suppliers at prearranged prices, under set terms and conditions, when and if these are requested;

**“Supplier” or “Vendor”** means a Person offering, providing or contractually required to provide Goods, Services and/or Construction to the City, as the case may be;

**“Term”** means the duration of a Contract with a Supplier excluding any optional extension terms;

**“Total Acquisition Cost”** means an evaluation of the sum of all costs for the Term of the Contract including purchase price, warranties, service costs, life cycle costs, time of completion or delivery, inventory carrying costs, operating and disposal costs, any optional extension terms, but excluding applicable Harmonized Sales Tax; and,

**“Two Envelope Submission Process”** means a process whereby a Supplier delivers a Proposal in two separate envelopes, the first generally containing the technical portion of the submission and the second containing the pricing information.

#### **Part IV - General Procurement Policy**

##### **Application**

5.-(1) The procedures in this By-law shall be followed for the procurement of Goods, Services and Construction.

(2) Subject to Section 33 and the requirements of Schedule “A” to this By-law, Authorized Persons may purchase the Goods and Services listed in Schedule “A” without following the procedures set out herein.

(2A) Schedule “C” shall be in effect during such period or periods of time as tariffs imposed by the United States of America as part of a trade dispute with Canada are in effect and shall continue in effect in each such instance until there is certainty that the discrete or ongoing trade dispute between Canada and the United States has ended.

(3) The Agent may elect to use Electronic Bidding and the procurement process will be stated in the Bid Solicitation.

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

Greater Sudbury Police Services Board;  
Greater Sudbury Public Library Board;  
City of Greater Sudbury Community Development Corporation;  
Greater Sudbury Housing Corporation; and,  
Sudbury Airport Community Development Corporation.

(5) For all purposes of the application of this By-law and this Section to the local boards and corporations referred to in Subsection 5(3), all references, where appropriate and applicable, to Council herein shall be replaced with the governing body of each of the following local boards and corporations as follows:

Greater Sudbury Police Services Board;  
Greater Sudbury Public Library Board;  
City of Greater Sudbury Community Development Corporation;  
Greater Sudbury Housing Corporation; and,  
Sudbury Airport Community Development Corporation.

(6) For all purposes of the application of this By-law and this Section to the local boards and corporations referred to in Subsection 5(3), all references, where appropriate and applicable, to ELT Members shall be replaced with the following persons associated with the following local boards and corporations:

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 Community Development Corporation: General Manager of Growth and Development or designate;  
Greater Sudbury Housing Corporation: General Manager of Community Development or designate; and,  
Sudbury Airport Community Development Corporation: Chief Executive Officer of Airport Services or designate.

(7) Procurement of Goods, Services or Construction shall comply with all applicable law and all Applicable Trade Agreements.

### Restrictions

6.-(1) No purchase of 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 entered into where the Services would result in the establishment of an employer/employee relationship.

(3) No Employee shall purchase, on behalf of the City of Greater Sudbury, whether the City receives funding in whole or in part from a third party or third parties, any Goods, Services or Construction, except in accordance with this By-law.

(4) Employees shall not accept gifts, favours, hospitality or any benefits from a Bidder or Supplier except as may be permitted by the City's policies in limited circumstances for promotional gifts or items of nominal value and at no more frequency than that at which the City would normally reciprocate.

(5) Where an Employee involved in the procurement process 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 ELT Member involved in the Award of the Contract and the Agent 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.

(6) An Employee has an indirect pecuniary interest in any Contract in which the City is concerned, if:

- (a) the Employee, his or her spouse, or the child or parent of the Employee or his or her spouse;

- (i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public and 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 and 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 contract; or
- (b) the Employee, his or her spouse or the child or parent of the Employee or his or her spouse is in the employment of a person, that has a pecuniary interest in the Contract.

(7) All persons who, on behalf of the City, provide or prepare 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.

#### **Official Point of Contact**

7.-(1) The official point(s) of contact shall be indicated by the Agent in all Bid Solicitations. Bidders shall ensure that from the date of the issuance of the Bid Solicitation until the Award all communications are with the official point(s) of contact indicated in the Bid Solicitation. Bidders, their employees or anyone involved in preparing Bids shall not engage in any form of communication, discussion or lobbying of any form with Members of Council, Authorized Persons, other City Employees or consultants not indicated as the official point(s) of contact to seek to influence the outcome of the procurement process or the Award. Contact with anyone other than the official point of contact in relation to a Bid Solicitation may result in the disqualification of the Bidder.

(2) Other than the official point(s) of contact no Member of Council, Authorized Person or City consultants shall receive or accept any information or documents in relation to a particular procurement while the process is ongoing and prior to the award. Any inquiries in relation to a particular procurement shall be immediately directed to the official point(s) of contact or the Agent.

#### **Council Approval and Information Reports**

8.-(1) Despite any other provisions of this By-law, the following Contract Awards are subject to Council approval:

- (a) any Contract Award, excluding Multi-Year Contract Awards, where the Total Acquisition Cost is greater than the Council Approved Budget;
- (b) any Multi-Year Contract Award where the Annual Acquisition Cost exceeds the Council Approved Budget;
- (c) any Multi-Year Contract Award where the Term including any optional extension terms exceeds five years and the Annual Acquisition Cost is \$133,800 or more;

- (d) any Non-Competitive Purchase where the Total Acquisition Cost of such Goods, Services or Construction is \$133,800 or more:
  - (e) any Contract Amendment that would cause a Contract to exceed Council Approved Budgets; and,
  - (f) any Contract Award resulting from a public-private partnership opportunity.
- (2) The Agent shall provide a Contract Award Report to Council listing all Contract Awards and Revenue Generating Contracts with a Total Acquisition Cost or revenue of \$250,000 or greater. This includes Contract Awards resulting from Bid Solicitations, Non-Competitive Purchases, purchases from Standing Offers, cooperative purchases, and Emergency purchases.
- (3) In circumstances where Council has approved a Contract for the Non-Competitive Purchase of Goods, Services or Construction, the maximum term shall be five years unless Council approves otherwise by resolution.
- (4) Council approval shall be obtained prior to the issuance of any Bid Solicitation under the public-private partnership model.
- (5) Approval by Council of the Contracts referred to in Subsection (1) shall be by resolution.

## **Part V - Procurement Procedures**

### **Responsibilities and Authorities**

- 9.-(1) ELT Members shall have authority and be accountable for all procurement activity and decisions within their Departments. Authorized Persons shall proceed with procurement in accordance with this By-law.
- (2) Authorized Persons shall be responsible for and shall provide the Agent with proposed terms of reference, scope of work or specifications for Bid Solicitations. Where the Request for Proposal procurement method is being used evaluation criteria and terms of reference shall be prepared by the Authorized Person in consultation with the Agent and approved by the ELT Member.
- (3) In consultation with the Agent, the City Solicitor and the Chief Information Officer, the ELT Member may, in accordance with policies of the Information Technology Section, set reduced indemnification requirements for procurements relating to information technology.
- (4) The Agent shall be responsible to respond to concerns and questions relating to procurement policies and procedures.

### **Notification of Procurement Opportunities**

- 10.-(1) Bid Solicitations for Goods, Services or Construction with an estimated Total Acquisition Cost of \$133,800 (excluding taxes) or more shall be done by Electronic Advertising and Electronic Advertising may be used for purchases in any other procurement threshold.
- (2) Notification of procurement opportunities for Goods, Services or Construction by Electronic Advertising may be supplemented by other means of notification where appropriate.

**Procedures**

11.-(1) The Agent shall be responsible for purchasing policies and procedures and, where necessary, shall, in consultation with Departments, establish written policies and procedures consistent with the Purposes, Goals and Objectives set out in this By-law relating to:

- (a) the form, content and use of documents, whether electronic or printed, including purchase requisitions, Purchase Orders, bonds, letters of credit and other forms of guarantee or surety, procurement documents and other Contract documents;
  - (b) the identification of those Goods, Services or Construction which, are more effectively acquired through cooperative purchasing, Standing Offer or Non-Competitive Purchase;
  - (c) the process to be followed in the issuing, receipt and evaluation of procurements in all thresholds, expressions of interest, requests for information or statements of interest 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; and,
  - (d) any other aspect of procurement process or procedure not specifically provided for in this By-law.
- (2) Where, in the opinion of the Agent, circumstances give 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 / Treasurer who shall have the authority to determine the appropriate action.

**Procurement Methods**

12. The following table details the acceptable procurement methods and purchase processes for each individual procurement threshold for the procurement of Goods, Services and Construction. In appropriate circumstances, procurement methods described in the thresholds herein may be utilized for purchases in lower dollar value thresholds.

Subject to Section 8, purchases in all procurement thresholds shall only be made where such purchases are within Council Approved Budgets. The procurement method shall be selected based on the best available estimate of the Total Acquisition Cost at the time of procurement.

Total Acquisition Cost Threshold	Acceptable Procurement Method	Documentation of Purchase	Details
\$4,999 or less (Section 13)	Competitive market place wherever possible. Any method listed below.	Approved Invoice, Petty Cash, Purchase Order or Procurement Card	Purchases made by Authorized Persons.

Total Acquisition Cost Threshold	Acceptable Procurement Method	Documentation of Purchase	Details
\$5,000 to \$24,999 (Section 14)	Minimum of one quote. Competitive market place wherever possible. Any method listed below.	Purchase Order, Agreement or Procurement Card	Purchases made by Authorized Persons.
\$25,000 to \$99,999 (Section 15)	Quotation Procedure. Any method listed below.	Purchase Order or Agreement	Purchases made by Authorized Persons or administered by the Purchasing Section on behalf of Authorized Persons.
\$133,800 or more (Sections 16 and 17)	Request for Tender or Request for Proposal. Any method listed below.	Purchase Order or Agreement	Purchase process administered by the Purchasing Section on behalf of Authorized Persons based on specifications, scope or terms of reference provided by Departments.
Any amount (Section 19 – Standing Offer purchases)	Any method listed above based on applicable Total Acquisition Cost.	Purchase Order or Agreement	Purchase process administered by the Purchasing Section on behalf of Authorized Persons based on specifications, scope or terms of reference provided by Departments.

**Purchases not Exceeding Four Thousand Nine Hundred and Ninety-Nine (\$4,999) Dollars**

13.-(1) Purchases made pursuant to this Section shall be made by Authorized Persons from the competitive market place wherever possible and may be made by payment on an Approved Invoice or a Purchase Order, through the use of Petty Cash or a Procurement Card.

(2) In accordance with the Petty Cash Policy, the Manager of Accounting shall have authority to establish Petty Cash funds for Departments as necessary to meet requirements for the acquisition of Goods or Services.

**Purchases Between Five Thousand Dollars (\$5,000) and Twenty-four Thousand Nine Hundred and Ninety-Nine Dollars (\$24,999)**

14.-(1) Procurement procedures for purchases of Goods, Services or Construction between the amounts of \$5,000 and \$24,999 shall be conducted by Authorized Persons. Authorized Persons

shall obtain a minimum of one written quote and shall ensure that Fair Market Value is being obtained for the Goods, Services or Construction purchased.

(2) Purchases in this threshold may be made with a Procurement Card up to authorized limits or on a Purchase Order or other Contract.

**Purchases Between Twenty-five Thousand (\$25,000) and Ninety-Nine Thousand Nine Hundred and Ninety-Nine Dollars (\$99,999)**

15.-(1) Purchases between Total Acquisition Cost amounts of \$25,000 and \$99,999 shall be conducted by an Authorized Person except where the procurement method is a Request for Proposal or Request for Tender or where a Bid Deposit or performance guarantee is required, in which case the purchase shall be conducted by the Agent on behalf of the Authorized Person. Procurements using the Quotation Procedure shall be Awarded to the lowest compliant quotation.

(2) Three or more written quotations shall be obtained and all Suppliers from whom a quotation is requested shall be provided with the same information. If the Authorized Person has exhausted all efforts to obtain three quotes and can support this with documented evidence then a minimum of two written quotations is acceptable.

(3) Authorized Persons, within their respective Purchasing Authority Policy limits, may Award Contracts where the Quotation Procedure is used provided that Awards are made to Suppliers meeting the City's requirements submitting the lowest compliant quotation. Where an Award is not being made to the lowest compliant quotation then the award may only be authorized by the Authorized Person and the Agent jointly. Any Award for a procurement conducted pursuant to this Section where the actual cost exceeds the \$133,800 Total Acquisition cost threshold shall also require the approval of the Agent."

(4) Authorized Persons procuring Goods, Services or Construction by way of the Quotation Procedure shall maintain all documents related to the procurement for a period consistent with the City's retention policy and in any event not less than two years.

**Purchases of One Hundred Thousand, Eight Hundred Dollars (\$133,800) Dollars or More**

Request For Tender

16.-(1) A Request for Tender shall be used for purchases with a Total Acquisition Cost of \$133,800 or more 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) Subject to Section 8, Authorized Persons, or the Agent on behalf of such Authorized Persons, within their purchasing authority limits, may Award Contracts emanating from a Request for Tender provided that:

- (a) the Award is to the Lowest Compliant Bid;

- (b) the Agent is in receipt of the appropriate approvals and sufficient funds are available for the Total Acquisition Cost and identified in appropriate accounts within Council Approved Budgets; and
- (c) the provisions of this By-law are complied with.

(3) Authorized Persons shall follow the provisions of Section 33 regarding the form of Contract required to complete the purchase.

#### Request For Proposal

**17.-(1)** A Request for Proposal shall be used in circumstances where one or more of the criteria for issuing a Request for Tender cannot be met 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 an evaluation against set criteria rather than on price alone.

(2) Requests for Proposals shall contain the criteria which will be used to evaluate proposals.

(3) The Authorized Person in consultation with the Agent shall determine the circumstances where a Two Envelope Submission Process shall be used.

(4) The Agent shall facilitate the evaluation process and shall not participate in the scoring of the Proposal.

(5) Subject to Section 8, Authorized Persons, or the Agent on behalf of such Authorized Persons, may Award Contracts emanating from a Request for Proposal provided that:

- (a) the Award is made to a Proponent meeting all mandatory requirements and providing the Best Value;
- (b) the Agent is in receipt of the appropriate approvals and sufficient funds are available for the Total Acquisition Cost and identified in appropriate accounts within Council Approved Budgets; and
- (c) the provisions of this By-law are complied with.

(6) Authorized Persons and the Agent shall follow the provisions of Section 33 regarding the form of Contract required to complete the purchase.

#### **Procurement Cards**

**18.** The Agent is responsible for the administration of the Procurement Card program outlined in the City of Greater Sudbury=s Procurement Card Policy. The Purchasing Card Policy shall be consistent with this By-law.

#### **Standing Offers**

**19.-(1)** Standing Offers may be established in circumstances where:

- (a) one or more departments repetitively order the same Goods or Services and the actual demand is not known in advance; or,

- (b) a need is anticipated for a range of Goods, Services and Construction for a specific purpose, but the actual demand is not known at the outset, and delivery is to be made when a requirement arises.

(2) The Agent shall establish, maintain and renew Standing Offers that define source and price with one or more Suppliers for Goods, Services and Construction under set terms and conditions where no obligation to purchase any Goods, Services or Construction exists until the City places an order. Prices and sources for Standing Offers shall be established competitively pursuant to the provisions of this Bylaw.

(3) In issuing a call for a Standing Offer, the City shall indicate how subsequent purchases will be made from a Supplier under the Standing Offer.

(4) A Purchase Order or Agreement confirming the terms of the Standing Offer shall be executed by the successful Supplier or Suppliers.

(5) Notwithstanding Sections 13, 14, 15 and 16, once a Standing Offer is in place, the Goods, Services or Construction may be purchased in accordance with the terms of such Standing Offer by Authorized Persons up to his or her Purchasing Authority Policy limits subject to Council Approved Budgets.

### **Information Gathering Methods**

**20.** An Authorized Person may, through the Agent, conduct various information gathering processes which may include but are not limited to a request for expression of interest, a request for information, or a statement of interest. Such methods shall be used for the purpose of determining the availability of Suppliers of any Goods, Services or Construction and such requests shall not include any specific pricing information.

### **Request for Pre-Qualification**

**21.-(1)** For any of the purchasing methods listed in this By-law, a Request for Pre-Qualification may be used where the Authorized Person, through the Agent, wishes to ensure that Suppliers have the necessary experience, qualifications, and resources to provide the Goods, Services or Construction anticipated to be procured. The selection of Bidders to proceed to a procurement method by way of a Request for Pre-Qualification shall not create any contractual obligation between the City and a pre-qualified Supplier.

(2) The City may establish, maintain and renew a Multi-Use List of Suppliers for the purpose of a procurement process for the purchase of Goods, Services or Construction pursuant to the provisions of this By-law, based on Suppliers who have satisfied the conditions for participation on the list by way of a Request for Pre-Qualification.

### **Non Competitive Purchases**

**22.-(1)** Non-Competitive Purchases may be considered where one or more of the following factors are present:

- (a) a Sole Source purchase is being recommended by the Authorized Person;
- (b) a Single Source Purchase is being recommended by the Authorized Person for one or more of the following reasons:

- (i) the standardization or compatibility of a Purchase with existing equipment, product standards, facilities or service is a paramount consideration;
- (ii) a Good is purchased for testing or trial use;
- (iii) there is an absence of competition for technical reasons and the Goods, Services and/or Construction Services can only be supplied by a particular Supplier;
- (iv) the City has a rental contract with a purchase option and such purchase option is beneficial to the City;
- (v) no bids were received in response to a Bid Solicitation or Quotation Procedure.; or,
- (vi) a business case can be made to establish that the purchase is in the best interests of the City.

(2) Any Non-Competitive Purchase with a Total Acquisition Cost between \$25,000 and \$99,999 must be approved by the Agent prior to any Award by an Authorized Person.

(3) Award of Non-Competitive Purchases with a Total Acquisition Cost of \$133,800 or more shall require Council approval in accordance with paragraph 8.(1)d).

### **Cooperative Purchasing**

**23.-**(1) An ELT Member and the Agent, jointly, may choose to participate in cooperative purchasing initiatives with other levels of government, other municipalities, members of the broader public sector, government agencies or public authorities where, in their opinion, it is in the best interests of the City to do so and where the purpose, goals and objectives of this By-law are substantially complied with.

(2) The policies of the organization calling the cooperative Bid Solicitation are to be the accepted policy for that particular purchase.

### **Contract Without Budgetary Appropriation**

**24.-**(1) 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, an ELT Member shall obtain Council approval , prior to commencement of the purchasing process, by submission of a report to Council containing:

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

(2) Notwithstanding subsection (1), where Goods or Services are routinely purchased on a recurring yearly basis, Authorized Persons or the Agent on behalf of such Authorized Persons

may commence the procurement process where the Annual Acquisition Cost is within Council Approved Budgets and where the Authorized Person is of the opinion that the requirement will continue in subsequent years and it is reasonable to expect that funding will continue to be available for that purpose.

### **Unsolicited Proposals**

**25.** No award of a Contract shall be made for an unsolicited proposal unless it is determined by an Authorized Person that there is a legitimate need for the Goods and/or Services offered by way of an unsolicited proposal, then the purchase shall be conducted in accordance with this By-law.

### **Emergency Purchases**

**26.** Where an Emergency exists requiring the immediate procurement of Goods, Services or Construction, an Authorized Person or the Agent on behalf of an Authorized Person may purchase the required Goods, Services or Construction by the most expedient and economical means, notwithstanding any other provision of this By-Law with the exception of Section 33.

### **Revenue Generating Contracts**

**27.-(1)** Based on the revenue to be generated, a Bid Solicitation or Quotation Procedure shall be followed for the establishment of Revenue Generating Contracts, unless otherwise authorized by Council.

(2) This By-law shall apply with necessary modifications to Revenue Generating Contracts and for the purposes of the application of this By-law the revenue to be generated shall be considered in determining the procurement process as if it was Total Acquisition Cost as that term applies to non Revenue Generating Contracts.

## **Part VI – Bid and Contract Administration**

### **Bid Deposits and Performance Guarantees**

**28.-(1)** Security to guarantee execution and performance of Contracts shall be established in accordance with standard City practices and any exceptions shall be subject to consultation with the Agent.

(2) Types of security to guarantee execution and performance may include one or more of, but are not limited to, liquidated damages, security deposits, irrevocable letters of credit and financial bonds issued by approved guarantee companies properly licensed in the province of Ontario, all of which shall be on forms acceptable to the City.

### **Cancellation of Bid Solicitation**

**29.** The Agent shall have the right to cancel any Bid Solicitation or procurement process at any time prior to execution of contractual documents pursuant to Section 33.

### **Negotiations and Identical Bids**

**30.-(1)** Where Bids received in response to a Bid Solicitation exceed the Council Approved Budget, the Agent and the Authorized Person may negotiate with the Lowest Compliant Bidder or the Proponent providing the Best Value, as the case may be, where the Agent and the

Authorized Person agree that the changes required to achieve an acceptable Bid are of a minor nature and will not change the general nature of the requirement described in the Bid Solicitation. Nothing herein shall require the Agent and the Authorized Person to conduct negotiations on any Bid Solicitation and any negotiations may be discontinued at any time at the sole discretion of the Agent and the Authorized Person.

(2) The method of negotiation shall include standard negotiating procedures that employ ethical public procurement practices in consultation with the Agent.

(3) If the Lowest Compliant Bids from two or more Bidders are identical in Total Acquisition Cost or unit price, the Agent, in consultation with the Authorized Person, may 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.

(4) The Agent shall not reveal information pertaining to the negotiations pursuant to subsection (3) 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.

(5) When negotiations are not successful in breaking the identical bids, then factors to be considered in breaking the tie include:

- (a) prompt payment discount;
- (b) when delivery or completion date are important factors, preference to the Bidder offering the best delivery or completion date;
- (c) preference to a Bidder in a position to provide better after sales services;
- (d) preference to a Bidder with an overall satisfactory performance record over a Bidder known to have an unsatisfactory performance record;

(6) When the considerations above do not break the tie the successful Bidder shall be determined by coin toss. The coin toss shall be performed in the presence of the Bidders if they wish to attend, the Authorized Person and the Agent.

### **Bid Irregularities**

**31.-**(1) Subject to subsection (2), the process for administering irregularities contained in Bids pertaining to Bid Solicitations shall be as set out in Schedule "B". For an irregularity listed in the first column of Schedule "B", the applicable response is set out opposite to the irregularity in the second column of Schedule "B".

(2) Notwithstanding subsection (1), prior to the closing date for the receipt of bids for any Bid Solicitation the Agent has the authority to determine whether Schedule "B" applies in whole or in part to such Bid Solicitation which shall be clearly indicated in the Bid Solicitation.

### **Debriefing and Complaint Process**

**32.-**(1) Bidders may, within 60 business days of being informed that they have been unsuccessful in relation to a procurement for the City of Greater Sudbury, make a written request for a debriefing. The Agent shall arrange a debriefing, either in person or by telephone,

with the unsuccessful Bidder and the Authorized Person to discuss the details of why the Bid was unsuccessful.

(2) If the Bidder remains dissatisfied after the debriefing, the Bidder will have 10 business days after the date of the debriefing to file a formal written complaint with the Agent.

(3) The complaint will be reviewed by the Chief Administrative Officer and the Chief Financial Officer/Treasurer in consultation with the Agent, the Authorized Person and the City Solicitor.

(4) The Bidder shall be provided with a written response to the complaint by the Agent within 60 business days of receipt of the formal written complaint.

### **Contractual Agreement**

**33.**-(1) The Award of all procurements over \$24,999 shall be formalized by way of a Purchase Order or other Contract issued to confirm the purchase of the Goods, Services or Construction, except for purchases of Goods or Services by a Procurement Card in accordance with the Procurement Card Policy.

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

(3) A formal agreement may be used when the resulting project is complex or will contain terms and conditions other than the City of Greater Sudbury's standard contractual terms and conditions. In such cases, a Purchase Order may be issued for tracking purposes.

(4) It shall be the responsibility of the applicable ELT Member, in consultation 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 prepared and reviewed in consultation with the City Solicitor and a copy of the executed agreement provided to the Agent and the Authorized Person.

(6) Where a formal agreement is required, it may be executed by the applicable ELT Member or the Authorized Person having sufficient purchasing authority pursuant to the Purchasing Authority Policy. Where the Total Acquisition Cost exceeds the purchasing authority of the ELT Member, the agreement shall also be executed by either the Chief Administrative Officer or the Chief Financial Officer/Treasurer.

(7) In addition to incorporating relevant terms and conditions for the procurement, Contracts shall contain appropriate indemnification and insurance requirements.

(8) Where a Contract will result in the removal, replacement or creation of materials that may be of some continuing value, such Contract shall clearly state whether the materials are retained by the City or the Supplier.

### **Contract Administration**

**34.** (1) Prior to the provision of Goods, Services or Construction that are the subject of the procurement, the Agent or the Authorized Person in circumstances where the Purchasing Section is not administering the purchase, shall ensure that the Supplier has provided the

required security, evidence of insurance as requested in the procurement and a Certificate of Clearance from the Workplace Safety and Insurance Board (“WSIB”).

(2) For the entire duration of a Contract, the Authorized Person administering the Contract shall ensure that evidence of required insurance coverages, performance security and WSIB certificates are renewed and maintained, where applicable.

### **Contract Amendments**

**35.**-(1) Contract Amendments may be approved by Authorized Persons within Purchasing Authority Policy limits where the Total Acquisition Cost of the initial Contract, the Contract Amendment and any previous Contract Amendments are collectively within Council Approved Budgets.

(2) In arriving at a determination as to whether a Contract Amendment is appropriate, an Authorized Person shall consider the scope of the amendment and the scope of the existing Contract and whether the amendment should be the subject of a new Bid Solicitation instead of a Contract Amendment. In all cases, the Authorized Person shall ensure that any Contract Amendment is in the best interest of the City. Contract Amendments should be avoided for Contracts that involve construction subsequent to certification of substantial performance as that term is defined pursuant to the *Construction Act*. The Agent may be consulted with respect to any Contract Amendment.

(3) A Contract Amendment that changes the price of a contract shall contain a corresponding change in the scope of work or terms of reference except in the case of an extension term to an existing Contract which was contemplated in the Bid Solicitation.

(4) Where a Contract contains an option to extend the term such extension shall be exercised in writing by the Authorized Person in consultation with the Agent in accordance with the terms of the Contract with notice to the Agent where:

- (a) the Supplier's performance in supplying Goods, Service or Construction has been satisfactory and in accordance with the terms of the Contract;
- (b) the Supplier is not in default under the terms of any other City Contract;
- (c) the exercise of the extension option is in the best interest of the City; and,
- (d) the cost of the Goods, Services or Construction for the extension term is within Council Approved Budgets and represents fair market value for the City.

### **Contract Performance**

**36.**-(1) Authorized Persons shall be responsible for monitoring and ensuring the satisfactory performance of Suppliers with City Contracts.

(2) Departments shall record issues of non-performance or unsatisfactory performance in writing and shall consult with the Agent and the City Solicitor as required to ensure that Contracts are performed in accordance with their terms and conditions.

## Disqualification of Bidders or Suppliers

**37.-(1)** For the purposes of this Section, Bidder and Supplier shall be deemed to include any related entity and any partner, principal, director or officer of such Bidder or Supplier as well as any other legal entity with one or more of the same partner(s), principal(s), director(s) or officer(s).

(2) A Bidder or Supplier may be excluded from eligibility to submit Bids or quotes or a submitted Bid or quote may be summarily rejected and returned to a Bidder or Supplier where the Chief Administrative Officer, the Agent and the applicable EL T Member agree, in consultation with the City Solicitor, in their absolute sole discretion that one of the following circumstances has occurred:

- (a) the Bidder or Supplier is or has been involved in Litigation with the City, its elected officials, officers or employees;
- (b) the Bidder or Supplier has failed to pay an amount owed to the City when due and owing;
- (c) there is documented evidence of poor performance, non-performance or default by the Bidder or Supplier in respect to any Contract;
- (d) the Bidder or Supplier has withdrawn its Bid on a previous Bid Solicitation after Bids have been opened by the City;
- (e) the Bidder or Supplier is in breach of Section 7 of this By-law;
- (f) the Bidder or Supplier has been determined to be in non-compliance with the terms of the City's Fair Wage Policy as adopted pursuant to By-law 2007-298 or as amended;
- (g) the Bidder, Supplier or its personnel have demonstrated abusive behaviour or threatening conduct towards City employees, their agents or representatives;
- (h) the Bidder or Supplier has been convicted of a criminal offence including but not limited to fraud or theft;
- (i) the Bidder or Supplier has been convicted of any quasi-criminal offence pursuant to applicable legislation or regulations including but not limited to the *Occupational Health and Safety Act*, as amended, where the circumstances of that conviction demonstrate a disregard on the part of the Bidder or Supplier for the health and safety of its workers, City Employees or the general public;
- (j) the Bidder or Supplier is bankrupt or insolvent;
- (k) the Bidder or Supplier has made a false declaration(s); or,
- (l) the Bidder or Supplier has committed professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the Bidder or Supplier.

(3) In arriving at a determination for the disqualification of a Bidder or Supplier pursuant to this Section, the Chief Administrative Officer, the EL T Member and the Agent, in consultation

with the City Solicitor, will consider whether the circumstances are likely to affect the Bidder or Supplier's ability to work with the City, its consultants and representatives, and whether the City's experience with the Bidder or Supplier indicates that the City is likely to incur increased staff time and legal costs in the administration of any dealings with the Bidder or Supplier.

(4) Based on the severity of the events leading to the disqualification, the Chief Administrative Officer, the EL T Member and the Agent, in consultation with the City Solicitor, shall establish the duration of the period during which the disqualification shall be effective.

### **Set-Off**

**38.** The City may exercise set-off against any Supplier providing Goods, Services or Construction to the City where it is determined that such Supplier is indebted to the City, regardless of how such indebtedness arises, and the City may re-direct payments otherwise due to such Supplier towards repayment of outstanding amounts owed to the City.

## **Part VII – Other**

### **Surplus and Obsolete Goods**

**39.**-(1) ELT Members shall dispose of all Goods for which they no longer have use and that are of value by using appropriate methods for disposal that are in the City's best interests, including without limitation, public auction, public tender, trade, negotiated sale, donation or transfer to another Department.

(2) Notwithstanding subsection (1), used computer and associated information technology equipment may be donated upon written request in the following order:

- (a) To the local District School Boards with an even and fair distribution to each Board;
- (b) If there are any remaining pieces of equipment they will be offered to registered non-profit organizations or charitable agencies in the City of Greater Sudbury;
- (c) If there are any remaining pieces of equipment they will be offered to volunteer organizations and committees in the City of Greater Sudbury;
- (d) If there are any remaining pieces of equipment, they may be sent to a designated electronic recycling depot.

(3) 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.

(4) No Council Member or Employee shall be permitted to receive surplus or obsolete Goods except by purchase at public auction, public tender, trade, advertised sale, or, with the prior approval of the Chief Administrative Officer, by negotiated sale.

### **Access to Information**

**40.** The disclosure of information received through the application and administration of this By-law shall be in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, as amended.

***Ontarians with Disabilities Act, 2001 and Accessibility for Ontarians with Disabilities Act, 2005***

41.-(1) In accordance with the *Ontarians with Disabilities Act, 2001*, S.O. 2001, c.32, the City shall have regard to the accessibility for persons with disabilities in respect of Goods, Services or Construction purchased by the City.

(2) The City and all Suppliers who provide Goods, Services or Construction to the City shall comply with the *Accessibility for Ontarians with Disabilities Act, 2005*, and all Regulations emanating therefrom.

**Effective Date**

42. This By-law shall come into force and take effect on the 1<sup>st</sup> day of December, 2014.

**Repeal**

43.-(1) By-law 2006-270 and all amendments thereto are hereby repealed on the effective date of this By-law.

(2) The repeal of By-law 2006-270 shall not affect the validity of any actions taken or procurements issued prior to the effective date of this By-law. For clarity and unless otherwise stated, Bid Solicitations and blanket purchase orders issued prior to the effective date of this By-law, including any purchases made under such blanket purchase orders subsequent to the said effective date, shall continue to be subject to the provisions of By-law 2006-270 notwithstanding the repeal.

**Read and Passed in Open Council** this 28th day of January, 2014

\_\_\_\_\_ Mayor

\_\_\_\_\_ Clerk

**Schedule "A"**  
By-law 2014-1 of the City of Greater Sudbury

Subject to being within Council Approved Budgets, the Purchasing Authority Policy and Section 33 of this By-Law, the purchasing methods described in this By-law are not required for the purchase of the following Goods and Services but may be used where, in the sole discretion of the Authorized Person, the use of such methods would be in the best interest of the City:

1. Training and Education

- (1) Registration and Tuition fees for conferences, conventions, courses and seminars
- (2) Magazines, books and periodicals
- (3) Memberships
- (4) Facilitators and Key Note Speakers

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) Debt or Debenture Payments
- (5) Grants and Levies to Agencies
- (6) Damage Claims
- (7) Petty Cash Replenishment
- (8) Tax Remittances

4. Professional and Special Services

- (1) Committee Fees
- (2) Legal and other Professional Services related to litigation or legal matters which must be procured in accordance with the City's By-law for the Delegation of Authority to Various Officers of the City as amended or replaced from time to time.
- (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

**Schedule "A"**  
By-law 2014-1 of the City of Greater Sudbury

5. Other

- (1) Utilities
- (2) Advertising services required by the City on or in but not limited to radio, television, newsprint or on-line media
- (3) newspaper and magazine subscriptions
- (4) Bailiff, collection agencies and financial reviews conducted on a contingency basis for the purposes of recovering amounts paid or owed
- (5) Concerts and special events including goods and services purchased for special events and concerts held at the Sudbury Arena as directed and reimbursed by a promoter in accordance with standard form agreements.
- (6) Real estate acquisitions and dispositions pursuant to Part XI of the *Municipal Act, 2001*.
- (7) Investments
- (8) Removal, relocation, maintenance and construction related to utility or rail infrastructure
- (9) Payments by the Community Development Department in relation to Agreements described in Section 1 of Schedule A to the Delegation of Authority Bylaw being Bylaw 2006-259, as amended or replaced from time to time.
- (10) Purchases of Services from related corporations
- (11) Ongoing costs for software systems previously acquired
- (12) The existence of exclusive rights for Goods previously acquired, such as proprietary, patent, copyright, license or warranty restrictions

**Schedule "B"**  
By-law 2014-1 of the City of Greater Sudbury

**Applicable to Hard Copy and Electronic Bidding**

Unless indicated otherwise by the Agent in writing, where time is provided pursuant to this Schedule such time shall commence upon written notification being sent by the Agent.

	<b>IRREGULARITY</b>	<b>RESPONSE</b>
1	Late Bid.	Automatic rejection.  Bid not to be accepted at the counter. If accepted (for example: received by mail) such Bid shall not be opened or read publicly and shall be returned to the Bidder.  Electronic Bidding system shall not accept late Bid submissions.
2	Unsealed Submission Package	Automatic rejection.
3	Failure to attend or have a representative in attendance at a Mandatory Information Meeting within the prescribed time period.	Automatic rejection where such meeting is specified as mandatory in the Bid Solicitation.
4	Any other irregularities.	Automatic rejection.  The Agent and the applicable ELT Member in consultation with the City Solicitor shall have authority to waive other irregularities or grant four (4) business days to initial or correct such other irregularities determined by them to be trivial or insignificant.
<b>Bid Deposit and Performance Guarantee (Where Required)</b>		
5	No Bid Deposit, performance guarantee or agreement to bond or insufficient Bid Deposit, Performance Guarantee or agreement to bond.	Automatic rejection.
6	Failure to execute agreement to bond (Surety's Consent).	Automatic rejection.
7	Failure to execute Bid Bond by Bidder or Bonding Company.	Automatic rejection.

**Applicable to Hard Copy and Electronic Bidding**

<b>Bid Documents and Execution</b>		
8	All required sections of Bid documents not completed.	Automatic rejection unless, in the opinion of the Agent, the incomplete nature is trivial or insignificant in which case four (4) business days shall be provided to complete the required sections.
9	All required Bid documents not submitted	Automatic rejection unless, in the opinion of the Agent, the bid document not provided contains information which is trivial or insignificant in which case four (4) business days shall be provided to submit the document(s).
10	Qualified Bids (Bids qualified or restricted by an attached statement).	Automatic rejection unless, in the opinion of the Agent and the applicable ELT Member in consultation with the City Solicitor, the qualification or restriction is trivial or not significant.
11	Bids received on documents other than those provided or specified by the City.	Automatic rejection unless, in the opinion of the Agent and the applicable ELT Member in consultation with the City Solicitor, the intention of the Bidder is clear and the Bid documents do not materially deviate from those provided by the City.
12	Bids Containing Clerical Errors, which are trivial or insignificant.	Four (4) business days to correct and initial errors. The determination of what constitutes trivial or insignificant errors shall be made in the opinion of the Agent.
13 (a)	Bids completed and/or signed in erasable medium.	Automatic rejection.
(b)	Failure to include a signature of the person authorized to bind the Bidder in the space provided in the Bid documents.	<p>Automatic rejection.</p> <p>Where the Bidder has provided a signature that does not appear to be an original signature (for example: a photocopy) the Bidder shall be provided with four (4) business days to provide an original signature.</p> <p>The Electronic Bidding system shall not accept Bids unless the Bidder has checked a box confirming authority to submit a Bid on behalf of the Bidder.</p>

**Schedule "B"**

By-law 2014-1 of the City of Greater Sudbury

**Applicable to Hard Copy and Electronic Bidding**

14 (a)	Uninitialed changes to the Tender documents, other than unit prices, which are trivial or insignificant;	Four (4) business days to initial changes. The determination of what constitutes trivial or insignificant uninitialed changes shall be made in the opinion of the Agent.
(b)	Unit prices in the Schedule of Prices have been changed but not initialed and the Contract totals are consistent with the price as changed;	Four (4) business days to initial change in unit price.
(c)	Unit prices in the Schedule of Prices which have been changed but not initialed and the Contract totals are inconsistent with the price as changed;	Automatic rejection.
(d)	Unit price extension which is not consistent with the unit price.	The Agent will update the extended price based on the stated unit price. (No change shall be made to the stated unit price.) The Bidder shall be provided four (4) business days to initial the changes as made by the Agent.
15	Other mathematical errors which are not consistent with unit prices or where an error has been made transferring an amount from one part of the submission to another	The Agent shall correct the error(s) or update with the amount shown before transfer, and shall update the ensuing totals accordingly. The Bidder shall have four (4) business days to initial corrections as made by the Agent
16	Bids, in which all necessary Addenda have not been acknowledged.	Automatic rejection unless in the opinion of the Agent and the applicable ELT Member in consultation with the City Solicitor, the addendum (addenda) does not significantly impact the bid, in which case the Bidder will be provided four (4) business days to formally acknowledge the addendum (addenda) with no change or amendment permitted to the financial Bid.  Electronic Bidding shall not accept submissions where all addenda have not been acknowledged.
17	Bid not submitted through Electronic Bidding.	Automatic rejection.

**Procurement Policy - Putting Canada First**

**EFFECTIVE DATE:** April 29, 2025

**EXPIRY DATE:** Refer to Section 8

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## 1. PURPOSE

In response to the imposition of tariffs by the United States of America (“US”) on Canadian good imports, this Procurement Policy – Putting Canada First (“Policy”) serves as an addendum to the existing Purchasing By-law and will supersede any procurement and contract management related policies and procedures while in effect.

The intent of this Policy is to create a structured framework that enables the City of Greater Sudbury (“City”) to adopt strategies that:

- **Support for the Canadian Economy:** Where possible, procurement decisions will consider the economic benefit to the Canadian economies to offset the harm imposed by US based tariffs.
- **Leverage Buying Power:** Aligned with any federal or provincial legislation or direction to municipalities to support a unified, cross-Canada approach that effectively leverages the considerable buying power of Canadian municipalities and other public sector organizations to support a broader trade and economic strategy.

## 2. APPLICATION AND SCOPE

This Policy applies to the City of Greater Sudbury and the local boards and corporations listed within Section 5. (4) of the Purchasing By-law.

This Policy applies to all new procurements of Goods, Services and Construction.

## 3. GUIDING PRINCIPLES

This Policy shall be governed by the following principles:

- **Fair, Open, and Transparent Procurement:** The City of Greater Sudbury remains committed to competitive bidding and adherence to Applicable Trade Agreements.
- **Flexibility:** The implementation of this Policy will be complex and will introduce both unique opportunities and challenges. As a result, a flexible and adaptive approach is essential to effectively navigate evolving market conditions, supply chain constraints, and trade dynamics. This flexibility will ensure that procurement decisions remain aligned with the City's strategic objectives while allowing for adjustments as needed to achieve best value and maintain service delivery to the public.
- **Best Value and Budget Compliance:** Procurement decisions must prioritize obtaining the best value for the City while ensuring all expenditures comply with Budget Policies and remain within the Council Approved Budgets.

**Procurement Policy - Putting Canada First**

**4. DEFINITIONS**

Capitalized terms contained within this Policy have the definition set-out in the Purchasing By-law or below:

**"Canadian Goods"** means a Good which more than half of the total direct costs (at least 51 percent) must be incurred in Canada. Additionally, the Good must have undergone its last substantial transformation in Canada.

**"Canadian Service"** means a service provided by a natural person based in Canada (includes Construction):

- If a requirement consists of only one Service, which is being provided by more than one natural person, the Service will be considered to be Canadian if a minimum of 70 percent of the total price for the Service is provided by natural persons based in Canada; or
- If a requirement consists of two or more Services and the requirement will be certified on an aggregate basis, the Service will be considered to be Canadian if a minimum of 70 percent of the total price for the Service is provided by natural persons based in Canada.

**"Canadian Supplier"** means a Supplier that has a Place of Business (i.e. office or production facility) in Canada.

**"Non-US Goods"** means a Good which more than half of the total direct costs (at least 51 percent) must be incurred in a country other than the US. Additionally, the Good must have undergone its last substantial transformation in a country other than the US.

**"Non-US Services"** means a Service provided by a natural person not based in the US (includes Construction):

- If a requirement consists of only one Service, which is being provided by more than one natural person, the Service will be considered to be non-US if a minimum of 70 percent of the total price for the Service is provided by natural person not based in the US; or
- If a requirement consists of two or more Services and the requirement will be certified on an aggregate basis, the Service will be considered to be non-US if a minimum of 70 percent of the total price for the Service is provided by natural person not based in the US.

**"Non-US Supplier"** means a supplier that has a Place of Business (i.e. office or production facility) in a country other than the US.

**"Place of Business"** means an establishment where a Supplier conducts activities on a permanent basis that is clearly identified by name and accessible during normal business hours.

**5. POLICY**

It is policy that:

- a) Procurement of Goods and Services with an estimated Total Acquisition Cost below \$353,300 that are covered by TCAOQ and CFTA be awarded to only Canadian

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Suppliers that will utilize only Canadian Services and only permit the supply or use of Canadian Goods.

- b) Procurement of Construction with an estimated Total Acquisition Cost below \$8,800,000 that are covered by TCAOQ and CFTA, be awarded to only Canadian Suppliers that will utilize only Canadian Services and only permit the supply or use of Canadian Goods.
- c) Procurement of Goods and Services with an estimated Total Acquisition Cost of \$353,300 or greater and Construction with an estimated Total Acquisition Cost of \$8,800,000 that are covered by TCAOQ, CFTA, and CETA be awarded to only Non-US Suppliers that will utilize only Non-US Services and only permit the supply or use of Non-US Goods.
- d) Procurement of transit vehicles: The City, when procuring transit vehicles, may, in accordance with the terms of CETA require that the Supplier contracts up to 25 percent of the contract value in Canada.
- e) Chief Administrative Officer (CAO) be authorized to release funding sources required to address any additional budget requirements as a result of Policy requirements.

**6. POLICY EXEMPTIONS**

Exemptions to this Policy will be permitted if adherence:

- is not feasible due to the lack of viable substitutions;
- would cause significant delay;
- would result in negative impacts on Canadian suppliers; or
- is not in the best interest of the City.

Provided that:

- Canadian, and/or Non-U.S. Suppliers, Services, and/or Goods receive preference through value-added evaluation criteria, where feasible and permissible under Applicable Trade Agreements;
- The Agent has been consulted;
- Authorization is obtained from the ELT Member as per applicable procedures. (Authorized Persons may obtain a blanket exemption for specific Suppliers, Goods, Services, or Construction.); and
- A copy of the exemption authorization has been provided to Purchasing prior to the Contract Award.

The following exceptions are not subject to ELT Member approval and may be approved by the Authorized Person:

- The removal of the requirement of Canadian Goods from Section 4. A and b), if replaced with Non-US Goods.

**7. ROLES AND RESPONSIBILITIES**

Executive Leadership Team:

**Schedule "C"**

By-law 2014-1 of the City of Greater Sudbury

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- Monitor the trade relationship between Canada and the US and provide strategic direction.
- Authorize Policy exemption requests.

Chief Financial Officer/Treasurer:

- Financial and Budget advice and guidance.
- Coordinate the release of funding sources required to address any additional budget requirements because of tariffs.

Chief Procurement Officer (Agent):

- Monitor the trade relationship between Canada and the US and recommend policy amendments in response to significant changes.
- Provide related procedures and guides.
- Provide Policy and Applicable Trade Agreement advice and guidance.
- Ensure compliance with the Policy.
- Provide mechanism to limit competition to Canadian Suppliers under Applicable Trade Agreement thresholds and other sourcing strategies.
- Research and analysis of Suppliers, Services and Goods.

Authorized Persons:

- Monitor the trade relationship between Canada and the US and mitigate risk to Department operations accordingly.
- Research and analysis of Suppliers, Services and Goods.

**8. REVIEW AND EXPIRY**

This Policy will remain in effect while US tariffs or the threat of tariffs on Canadian goods persist, which are not in accordance with the Canada-United States-Mexico Agreement.

At the direction and discretion of the CAO, this Policy shall be implemented and/or paused given the pauses and changes in the Canadian and US trading environment.

The Policy will be reviewed regularly to ensure alignment with municipal needs, Applicable Trade Agreements and economic conditions.

**9. APPROVAL AND IMPLEMENTATION**

This Policy shall take effect upon approval by City Council and will be implemented in conjunction with the City's existing Purchasing By-law.

**10. REFERENCED DOCUMENTATION:**

- [By-law 2014-1 A By-law Governing Procurement Policies and Procedures](#)
- Procedures and Guides for the Procurement Policy - Putting Canada First (Refer to CityLinks or contact the Purchasing Section)