

Municipality of the District of Lunenburg

POLICY	
Title: Purchasing and Tendering Policy	
Policy No. MDL-33	
Effective Date: January 1, 2014	Amended Date: January 12, 2016

1. Purpose and Objectives

The Municipality of the District of Lunenburg (Municipality) is committed to acquiring goods and services on a competitive basis to ensure that the best value is received and that procurement is done in a transparent, accessible, and equitable manner.

The Municipality is committed to:

- Provide for the procurement of goods, services, construction and facilities in a fair, open, consistent, and transparent manner resulting in best value;
- Encourage competition, innovative ideas and solutions, while respecting all Legislative and Trade Agreement obligations;
- Promote sustainable procurement in procurement decisions, including identifying and exploring opportunities to work with and support social enterprises and businesses that are owned by and who employ under-represented populations;
- Ensuring that qualified suppliers have equal opportunity to bid on the Municipality’s procurement arrangements.

2. Definitions

For the purposes of this policy, the following definitions are provided:

- 2.1 *“Alternative Procurement Practice”* - the purchase of goods or services without a public tender or other competitive process, in the circumstances described in Section 19 of this Policy;
- 2.2 *“Best Value”* - evaluating bids not only on purchase price and life cycle cost considerations, but also taking into account items such as environmental and social considerations, delivery, servicing and the capacity of the supplier to meet other criteria as stated in tender documents;
- 2.3 *“Bid-Shopping”* - the unacceptable use of bids submitted by suppliers as a negotiating tool to obtain a better price or other benefit;

- 2.4 “*Environmental Considerations*” - factors associated with the purchase, manufacture, operation or disposal of a product or asset that affect the environment, such as the degree to which the product or asset uses recycled materials, is energy efficient, or produces or reduces greenhouse gas emissions;
- 2.5 “*Life Cycle Cost*” - the total costs associated with a product or asset over its life span, including the cost of maintenance, repair or operation and disposal;
- 2.6 “*Local Business*” - businesses whose office or operations are physically located within Lunenburg County; [amended Jan. 12, 2016]
- 2.7 “*Municipality*” – Municipality of the District of Lunenburg;
- 2.8 “*Public Tender*” - involves a formal process including publicly advertising the Municipality’s intended procurement of certain goods or services and inviting responses from interested suppliers. Public tendering is a broad concept that includes traditional tenders, requests for proposals, and two phase bids, selective bids;
- 2.9 “*Request for Proposals*” - a formal invitation to suppliers to describe how their services, methods, equipment, or products can address and/or meet the needs of the Municipality;
- 2.10 “*Request for Quotations*” - informally obtaining price quotations from a number of different suppliers;
- 2.11 “*Social Considerations*” - factors associated with the purchase or manufacture of a product or asset that relate to the rights or interests of the workers involved, such as working conditions, fair wages, and compliance with human rights legislation and conventions;
- 2.12 “*Standing Offer*” - a source of supply available to the Municipality either through a standing price agreement with a supplier or as a member of a larger group of purchasers;
- 2.13 “*Traditional Tender*” - a formal invitation to suppliers to submit a bid to supply specified goods or services;
- 2.14 “*Selective Tender*” - a formal invitation to the suppliers of goods or services that are on an approved list of frequent tenders – qualified suppliers public advertising should also be used; however, tenders received from suppliers not on the approved list should also be considered, provided that there is sufficient time to complete the qualification procedure;
- 2.15 “*Open Tender*” - a formal invitation to supply goods or services are open to all suppliers and no approved list of frequent tender suppliers is used;
- 2.16 “*Two Phase Bid*” - a two stage process in which suppliers submit proposals for evaluation, and separately submit prices.
- 2.17 “*Value*” – the purchase value thresholds identified in the policy mean the pre-tax cost to acquire the good or service. [amended Jan. 12, 2016]

3. Application

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

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

4. Procurement Policy Principles for Municipality

All procurement carried out by the Municipality shall be carried out with a view to:

- 4.1 ensure an equitable, open, and transparent process for the acquisition of goods and services by the Municipality;
- 4.2 avoid dishonesty, corruption, or favouritism in the procurement of goods and services;
- 4.3 encourage competitive bidding wherever possible and, in any event minimize the Municipality's cost of acquiring goods and services while obtaining best value;
- 4.4 utilize suppliers who can be expected to provide satisfactory performance;
- 4.5 take into account environmental considerations in all procurement decisions and select environmentally beneficial goods and services where practical;
- 4.6 comply with applicable regional, national and international trade agreements, including the Agreement on Internal Trade and the Atlantic Procurement Agreement;
- 4.7 comply with the *Public Procurement Act*, S.N.S. 2011 c 12 and Regulations made pursuant to the *Public Procurement Act*;

5. Obligation of Municipal Personnel - Procurement Policy Principles

Pursuant to s15(1) of the *Public Procurement Act*, all municipal personnel involved in procurement on behalf of the Municipality shall:

- 5.1 ensure their procurement activities are conducted according to this policy, provincial and federal legislation, trade agreements and ethical business practices;
- 5.2 encourage and support collaborative procurement amongst other municipalities and public sector entities such as hospitals and school boards;
- 5.3 follow leading procurement practices;

- 5.4 in good faith, conduct business with current and prospective suppliers and be fair in all business dealings;
- 5.5 strive to obtain the best value for each expenditure;
- 5.6 require suppliers provide accurate representations of goods, services and construction;
- 5.7 encourage suppliers to consider integrating environmental, economic and social considerations in their product or service offerings;
- 5.8 encourage the negotiation of an equitable and mutually acceptable settlement when a dispute arises;
- 5.9 request removal from a procurement process when a personal conflict of interest is perceived.

6. Other - Procurement Policy Principles

In addition to adhering to the principles in Sections 4 and 5, normal purchasing practices shall be as described below in Sections 7 to 10.

7. Procurement – Less than \$2,500

- 7.1 The procurement decision shall be made by the applicable Director, Department Head, Supervisor, Purchasing Coordinator or by municipal personnel designated by one of those persons, depending on their Purchasing Authority limit;
- 7.2 Goods and services shall be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value;
- 7.3 If the goods or services cannot be procured under subsection 7.2, they may be purchased from any supplier, unless municipal personnel have a reason to believe that:
 - 7.3.1 purchasing the goods or services would not provide best value, or
 - 7.3.2 acquiring the goods and services would otherwise not conform with the procurement principles in Section 4.

8. Procurement - Value between \$2,500 and \$10,000

- 8.1 The procurement decision shall be made by the applicable Director, Department Head, Supervisor or by municipal personnel designated by one of those persons, depending on their Purchasing Authority limit;
- 8.2 Goods and services shall be procured under a standing offer if one exists for the goods or services required, and if doing so will provide the best value;

8.3 If the goods or services cannot be procured under subsection 8.2, the goods or services shall be procured by a request for quotation;

9. Procurement - Value between \$10,000 and \$25,000

9.1 The procurement decision shall be made by the CAO, Department Head, Supervisor, Purchasing Coordinator or municipal personnel designated by the CAO, depending on their Purchasing Authority limit;

9.2 Goods and services shall be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value;

9.3 If the goods and services cannot be procured under subsection 9.2, the CAO, Department Head, Supervisor or municipal personnel designated by the CAO shall decide whether the goods or services shall be procured by a request for quotation or by public tender;

9.4 If the goods and services are procured by a request for quotations, in addition to any other requirements for the request for quotations process, the following requirements shall be met:

9.4.1 all quotations shall be obtained in writing;

9.4.2 all suppliers of the particular goods and services listed in the Municipality's Supplier Registry shall be given an opportunity to quote;

9.4.3 the request for quotations shall be placed on the Municipality's webpage.

10. Procurement - Value of more than \$25,000

10.1 The procurement decision shall be made by Council, unless Council has expressly authorized the CAO to make the decision;

10.2 Goods and services shall be procured by public tender, which may be preceded by a two bid process involving a request for qualifications or request for expressions of interest or a selective tender.

10.3 Notwithstanding s.10.2, the Municipality may choose to procure goods and services through a standing offer, if doing so would provide best value to the Municipality.
[amended Jan. 12, 2016]

11. Exceptions to Procurement Practices

Council, or if authorized by Council, the CAO or designate may approve exceptions to the normal purchasing practices outlined in Sections 7 to 10 of this Policy:

11.1 When a more competitive process normally used for goods and services of higher value is used, or

- 11.2 When, in accordance with the criteria described in the “alternative procurement practices” provisions at Section 19 of this Policy, it is necessary or appropriate that the goods or services be purchased in accordance with that section.

12. Standing Offers

- 12.1 A standing offer is a source of supply available to the Municipality either through a standing price agreement with a supplier or as a member of a larger group of purchasers, and includes:
- 12.1.1 a standing agreement between the Municipality and a supplier in which the supplier commits to providing specified goods or services at a specific price for a specified period of time. Such standing agreements should themselves be the subject of a competitive tender process;
 - 12.1.2 equipment leading programs through the Government of Nova Scotia;
 - 12.1.3 Nova Scotia Provincial “standing offers” administered by the Nova Scotia Government;
 - 12.1.4 supplies and services available from the Government of Nova Scotia
 - 12.1.5 a procurement program administered by the Union of Nova Scotia Municipalities or the Association of Municipal Administrators;
 - 12.1.6 any other program available to several municipal units and other public sector entities such as hospitals and school boards, provided that the Purchasing Coordinator and/or Department Head or Designate is satisfied that such a program has been developed and conforms with the principles set out in Section 4;

13. Requests for Quotations

- 13.1 A request for quotations process involves informally obtaining price quotations from a number of different suppliers;
- 13.2 Requests for quotations are generally used when the cost of the goods or services does not warrant the time, effort and expense required for the public tendering process;
- 13.3 Quotations shall be sought from at least three suppliers, except when fewer than three suppliers are available within a reasonable distance, having regard to the value of the goods and services, the shipping or travel cost and the amount of time available before the goods and services are required to be available. When it is determined to obtain fewer than three quotations, the person responsible for the decision shall document their reasons for doing so;
- 13.4 Quotations shall be obtained in writing, except when time does not permit the obtaining of written quotations, the quotations may be obtained verbally, except when this Policy stipulates otherwise. If quotations are obtained verbally, the person responsible shall

document the quotation, including the time, date, supplier, price and description of the goods and services, the person from whom the quotation was obtained and the name of the municipal personnel obtaining the quotation.

14. Public Tendering

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

15. Traditional Tender

- 15.1 A traditional tender is a formal invitation to suppliers to submit a bid to supply specified goods or services;
- 15.2 A traditional tender should be used when the procurement requirements of the Municipality can be clearly and completely specified;
- 15.3 Traditional tenders do not have to be opened in public, but if they are not, the name of each bidder and the amount of their bid shall be made available to each bidder after the tenders are opened;
- 15.4 The Municipality shall not negotiate with any bidders, but shall award the procurement contract to the bidder that meets the tender requirements and provides best value.

16. Request for Proposals

- 16.1 A request for proposals is a formal invitation to suppliers to describe how their services, methods, equipment or products can address and/or meet the needs of the Municipality;
- 16.2 A request for proposals may be used when the Municipality is unable to clearly or completely specify the goods or services required, and suppliers are therefore asked to provide a solution to the problem, requirement or objective. Requests for proposals may also be used for professional and consulting services;
- 16.3 In order to preserve confidentiality of sensitive commercial information contained in a proposal, proposals submitted in response to a request for proposal need not be opened in public, but shall be opened in the presence of at least two representatives of the Municipality, and a list of the proponents shall be made available to the public and the proponents upon request;
- 16.4 Negotiations may be conducted with a proponent after proposals have been opened, subject to complying with the terms of the request for proposals, which shall be drafted to avoid unfair "bid-shopping" by the Municipality.

16.5 The Municipality shall award the procurement contract to the supplier whose proposal is determined to provide best value to the Municipality based upon the evaluation criteria set out in the request for proposals and equitably applied to all proposals.

17. Two Phase Bids

17.1 A two phase bid process invites suppliers to submit bids as follows:

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

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

17.2 A two phase bid process may be used when detailed specifications are not available or it is impractical to prepare a specification based on price. This form of procurement has the advantages of a request for proposals in Phase One and a traditional tender in Phase Two;

17.3 Phase One submissions need not be opened in public, but shall be opened in the presence of at least two representatives of the Municipality and a list of the proponents will be available to the public and the proponents upon request. Phase Two bids shall be opened in public;

17.4 The Municipality shall not negotiate with any bidders, and shall award the procurement contract to the supplier whose proposal is determined to provide best value to the Municipality based upon the evaluation criteria set out in the Phase One request for submissions equitably applied to all proposals, and the prices in Phase Two.

18. Selective Tenders

18.1 Selective tenders are a form of two phase bids where only pre-qualified suppliers on a list of qualified suppliers are asked to participate. The lowest bidder is customarily awarded the bid.

19. Alternative Procurement Practices

19.1 In certain circumstances, described in this section, the Municipality may purchase goods or services without using one of the options set out above. An alternative procurement purchase may occur only:

19.1.1 where an unforeseeable situation of urgency exists and the goods, services or construction cannot be obtained in time by means of open procurement procedures;

19.1.2 where goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to

- compromise government confidentiality, cause economic disruption or otherwise be contrary to the public interest;
- 19.1.3 where compliance with the open tendering provisions set out in this Policy would interfere with the Municipality's ability to maintain security or order or to protect human, animal or plant life or health;
- 19.1.4 the absence of tenders in response to an open or selective tender, or when the tenders submitted have been collusive, or not in conformity with the essential requirements in the tender;
- 19.1.5 to ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licenses, copyright and patent rights, or to maintain specialized products that shall be maintained by the manufacturer or its representative;
- 19.1.6 where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists;
- 19.1.7 for the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly;
- 19.1.8 for the purchase of goods on a commodity market;
- 19.1.9 for work to be performed on or about a leased building or portions thereof that may be performed only by the lesser;
- 19.1.10 for work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
- 19.1.11 for the procurement of a prototype or a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases;
- 19.1.12 for the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases;
- 19.1.13 for the procurement of original works of art;
- 19.1.14 for the procurement of subscriptions to newspapers, magazines or other periodicals;
- 19.1.15 for the procurement of real property;
- 19.1.16 for the procurement of goods intended for resale to the public;
- 19.1.17 for procurement from philanthropic institutions, prison labour, persons with disabilities, sheltered workshop programs or through employment equity programs;

- 19.1.18 for procurement from a public body or a non-profit organization; or
- 19.1.19 for the procurement of services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation.
- 19.2 When an alternative procurement purchase occurs, the reason for doing so shall be documented.
- 19.3 Where an alternative procurement purchase occurs that exceeds \$10,000, Staff shall notify Council, and the notification shall include the reason for exercising the alternative procurement provisions. [amended Jan. 12, 2016]

20. Public Tender Requirements

The following requirements apply to all public tenders, whether traditional tenders, requests for proposals, or two phase bids:

- 20.1 The Municipality shall provide reasonable notice and opportunity to respond to public tenders, and shall post or place notices of public tenders as follows:
 - 20.1.1 on the Province of Nova Scotia Procurement Web Portal;
 - 20.1.2 on the Municipality's website;
 - 20.1.3 in a Local Paper
 - 20.1.4 in a Provincial or National Paper, upon the direction of the CAO, when the CAO determines that the cost and nature of the procurement warrants the expense of doing so;
 - 20.1.5 in other media, as directed by the CAO, when the CAO determines that the cost and nature of the procurement warrants the expense of doing so.
- 20.2 Every public tender shall include or have attached the terms and conditions that govern the tender;
- 20.3 The terms and conditions of every notice of public tender shall be consistent with:
 - 20.3.1 the standard instructions that support public tenders issued by the four Atlantic provinces for goods and services, known as the Atlantic Standard Terms and Conditions Schedule "A", for the procurement of goods and services;
 - 20.3.2 the standard instructions that support construction tenders issued by the government of Nova Scotia, known as the Construction Contract Guidelines Schedule "B", for the procurement of construction.
- 20.4 Public tenders may include specifications or terms inclusive but not limited to the following:

- 20.4.1 expressly or by implication outlining the issues or criteria that will be used for selection of a successful bidder or proponent;
 - 20.4.2 a privilege clause stating that the lowest or any bid or proposal will not necessarily be accepted;
 - 20.4.3 the location for delivery of bids or proposals;
 - 20.4.5 the means of delivery of bids or proposals, and whether faxes or e-mails are acceptable in addition to hard copy submissions;
 - 20.4.6 the time and date of closing;
 - 20.4.7 a warning that tender documents and bids will be open to the public, except to the extent otherwise stated in a call for tenders or a request for proposals, in which event there shall be included a warning that proposals or bids are subject to the Freedom of Information and Protection of Privacy provisions of the *Municipal Government Act*;
 - 20.4.8 for design or architectural services, a statement that the Municipality will own the copyright in the design, plans and other intellectual property produced on behalf of the Municipality.
- 20.5 Public tenders may also include a form of contract that the successful bidder will be required to enter into with the Municipality, or may direct that bidders or proponents shall provide the form of contract with their bid or proposal;
- 20.6 For each public tender that is awarded, the Municipality shall post the name of the successful supplier and the contract amount on the Province of Nova Scotia Procurement Web Portal, and on the Municipality's website;
- 20.7 The terms and conditions of every public tender shall state the criteria that the Municipality will use in evaluating responses. Those criteria are not limited to purchase price and life cycle cost considerations, but may also include items such as environmental and social considerations, delivery, servicing and the capacity of the supplier.

21. Request for Debriefing

Upon the request of a supplier who is an unsuccessful bidder in a public tender, the Municipality shall conduct a debriefing with that supplier to provide feedback on the evaluation of the public tender as follows:

- 21.1 the CAO, Purchasing Coordinator, or the municipal personnel who evaluated the public tender shall conduct the debriefing;
- 21.2 the debriefing shall provide reasons for the disqualification of the supplier, or in the case where evaluation scoring was used, provide an overview of the supplier's score in each category and reasons for that score;

21.3 the debriefing shall provide information to the supplier on how to improve future submissions;

21.4 the debriefing shall not disclose any information regarding other bidders or their submissions.

22. Sustainability Considerations

22.1 Pursuant to the *Public Procurement Act*, in evaluating which goods or services offer best value to the Municipality, the Municipality may consider sustainability criteria, meaning environmental considerations, social considerations and economic considerations.

22.2 All requests for quotations and notices of public tender shall list the sustainability criteria that apply to the procurement;

22A. “Buy Local” Considerations [amended Jan. 12, 2016]

22A.1 In evaluating which goods or services offer best value to the Municipality, a 5% price preference will be applied to the price offered by a local business, such that the price offered by a local business will be adjusted lower by 5% for price evaluation purposes. [amended Jan. 12, 2016]

22A.2 The “Buy Local” preference will be applied to the procurement of goods whose value does not exceed \$25,000, and services whose value does not exceed \$50,000. [amended Jan. 12, 2016]

22A.3 All requests for quotations and notices of public tender shall clearly communicate the “Buy Local” preference. [amended Jan. 12, 2016]

23. Supplier Registry

23.1 Suppliers wishing to do business with the Municipality shall be encouraged to register in the Municipality’s Supplier Registry.

23.2 The Registry shall be maintained by the Purchasing Coordinator or other municipal personnel and shall consist of a table of prospective suppliers for goods and services of various types, along with contract information.

23.3 At least once per year, the Municipality shall advertise the existence of the Supplier Registry and the method of registration in order to update the Registry.

23.4 The Registry shall be used as a source or supplementary source of suppliers for requests for quotations, invitations to tender, requests for proposals and other public purposes, subject to the principles outlined in Section 4.

24. Unsatisfactory Suppliers

- 24.1 The Municipality may refuse to purchase goods and services from a supplier, and may remove a supplier name from the Supplier Registry, if, in the opinion of Council, the supplier has not provided satisfactory performance, has not and/or will not provide satisfactory quality goods or has otherwise not provided best value to the Municipality in previous dealings.

25. Conflicts of Interest

- 25.1 If municipal personnel otherwise authorized to award a contract has a conflict of interest, the award shall be made by the said municipal personnel's direct supervisor and further the conflicted municipal personnel shall not participate in the procurement process related to the contract in any manner.
- 25.2 Where Council is awarding a contract, the *Municipal Conflict of Interest Act* applies and any Councillor who has a conflict of interest as defined in the *Act* shall act accordingly.

26. Duration of Contracts

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

27. Lease Arrangements

- 27.1 Lease arrangements are subject to the provisions of this Policy, save and except that Council's authority shall be obtained for any leases required by the *Municipal Government Act* to be authorized by Council.

28. Approval of Form of Tender

- 28.1 Public tendering documents are to be reviewed by the Purchasing Coordinator, Department Head and, where appropriate, the CAO or designate prior to issuance to ensure consistency of tendering documents and practices.

29. Expenditures

- 29.1 Expenditures for goods and services made pursuant to this Policy shall be made in compliance with the Municipality's standard operating procedures for expenditures.

30. Estimating the Value of Goods and Services

- 30.1 In determining the cost of the goods or services for the purpose of deciding which of Sections 7, 8, 9 or 10 apply to a purchase, municipal personnel shall reasonably estimate the cost of the goods or services. Costs include delivery, net HST and, where applicable, configuration, installation and fees.

31. Posting of Policy

31.1 The Municipal Clerk shall be responsible for ensuring that this policy is posted on the Municipality’s website.

32. Compliance with Policy

32.1 All municipal personnel and council members shall act in good faith to comply with this policy; however, failure to comply with this policy does not invalidate any procurement decision or act of the Municipality, nor is the Municipality liable to any supplier or prospective supplier for failing to comply with this policy.

33. Effective Date and Repeal

33.1 The effective date of this policy is January 1, 2013.

33.2 Policy MDL-33 “Administration Purchasing Policy” effective date November 14, 2006, is hereby repealed and replaced with new policy MDL-33 “Purchasing and Tendering Policy”

Annotation for Official Policy Book	
Date of Adoption	January 1, 2014
Date of Notice to Council of Intent to Consider (7 days minimum)	December 3, 2013
Date of Passage of Repeal	December 10, 2013
Date of Notice to Council of Intent to Consider Amendments (7 days minimum)	January 5, 2016
Date of Passage of Amendments	January 12, 2016
I certify that MDL-33 “ <i>Purchasing and Tendering Policy</i> ” was adopted by Council on December 10, 2013, with an effective date of January 1, 2014.	
_____	_____
Municipal Clerk	Date

Schedule "A"

Atlantic Provinces Standard Terms and Conditions Goods and Services

Available online at:

<http://cap-cpma.ca/images/worddocuments/newatlantic-e.htm>

Schedule "B"

Construction Contract Guidelines

Available online at:

http://www.novascotia.ca/tenders/media/2291/ccg_n98.pdf