

INTRODUCTION

1.0 PURPOSE

In addition to establishing and maintaining a high level of public confidence in its procurement process, the Municipality of the District of East Hants (“the Municipality”) recognizes the contribution that public-sector procurement has towards the sustainable prosperity of the Municipality. This Policy has been designed to ensure the principles of public procurement (Open; Fair; Sustainable; Transparent; Consistent; Effective; Efficient; and, Competitive) are being adhered to, while supporting the sustainable procurement goal as identified in the Nova Scotia *Public Procurement Act* (2011).

2.0 OBJECTIVES

The Municipality of East Hants (hereafter referred to as the “Municipality”) is committed to:

- a) providing for the procurement of goods, services, construction and facilities in a fair, open, consistent and transparent manner, resulting in best value for the Municipality;
- b) utilizing suppliers who can be expected to provide satisfactory performance and best overall value to the Municipality;
- c) complying with the *Public Procurement Act*, SNS. 2011, c 12 and regulations made pursuant to the *Public Procurement Act*.
- d) complying with all regional, national and international trade agreements, including the *Agreement on Internal Trade* and the *Atlantic Procurement Agreement* (currently Municipalities are not subject to the *Canada-US Agreement on Government Procurement*);
- e) promoting sustainable procurement including identifying and exploring opportunities to work with and support social enterprises and businesses that are owned by and who employ under-represented populations;
- f) ensuring that qualified suppliers have equal opportunity to bid on the Municipality’s procurement activity;
- g) being accountable for procurement decisions;
- h) Avoiding dishonesty, corruption and favoritism in the procurement of goods and services.

3.0 SCOPE

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:

- a) by the Municipality from organizations owned or controlled by the Municipality;
- b) where a construction project is managed by a third party on behalf of the Municipality, 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.

This policy applies to procurement activity of the Municipality effective (enter date approved by Council).

The Chief Administrative Officer (CAO) of the Municipality is responsible for ensuring compliance with this policy. The CAO may delegate authority given to him/her throughout this Policy. Delegation will be formally documented in administrative Procurement Guidelines.

All Municipal personnel who have responsibility for the procurement of goods, services, construction, or facilities must adhere to this policy. Failure to adhere may result in a temporary or permanent loss of procurement privileges or in more extreme cases result in disciplinary action and/or dismissal.

4.0 DEFINITIONS

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

Term	Definition
Alternative Procurement Practice	<i>Alternative Procurement Practice</i> means the purchase of goods or services without a public tender or other competitive process, in accordance with the circumstances described in Appendix A of this Policy.
Atlantic Provinces Standard Terms & Conditions	<i>Atlantic Provinces Standard Terms & Conditions</i> means standard instructions that support public tenders issued by the four Atlantic provinces for goods and services. Supplements may be added if and when required.
Best Value	<i>Best Value</i> means evaluating bids not only on purchase price and life cycle cost considerations, but also taking into account items such as environment and social considerations, delivery, servicing and the capacity of the supplier to meet other criteria as stated in the tender documents.
Bid	<i>Bid</i> means a supplier response to a public tender notice to provide goods, services, construction, or facilities.
Bidder	<i>Bidder</i> means a person, firm or corporation who submits a bid.
Construction	<i>Construction</i> means the construction, reconstruction, demolition, repair, or renovation of a building, structure, road, or other engineering or architectural work, excluding professional consulting services related to the construction contract unless they are included in the procurement.
Construction Contract Guidelines	<i>Construction Contract Guidelines</i> means the standard instructions that support construction tenders, developed in consultation with the Construction Association of Nova Scotia.
Council Policy	A resolution of the council that is required, pursuant to the Municipal Government Act, to be recorded in the by-law records of a municipality, except where the context otherwise requires.
Effective From Date	Date when the policy is implemented and governed across the Municipality of East Hants.
Environmental Considerations	Factors associated with the purchase, manufacture, operation or disposal of a product or asset that affects 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.

Term	Definition
Facilities	<i>Facilities</i> (also referred to as <i>Building Leases</i>) means all building lease requirements covering the conveyance of the right to use tangible building property for a specified period of time in return for rent.
Goods	<i>Goods</i> means materials, furniture, merchandise, equipment, stationery and other supplies required by the Municipality for the transaction of its business and affairs and includes services that are incidental to the provision of such supplies.
Life Cycle Cost	The total costs associated with a product or asset over its life span, including the cost of maintenance, repair, operation and disposal.
Local Business	A businesses whose main office or operations are physically located within the boundaries of the Municipality of East Hants.
Organizational Policy	An organizational directive or rule that supports the business goals of the Municipality of East Hants. Describes what will or will not be done within the organization. These policies are developed based on Council granting power to the CAO to develop administrative policies for Municipal employees to follow.
Philanthropic institutions	Philanthropic institutions seek to promote the welfare of others, are generous and serve a charitable rather than a profit-making purpose.
Procurement Activity	<i>Procurement Activity</i> means the acquisition of all goods, services, construction, or facilities procured by purchase, contract, lease, or long-term rental.
Procurement Advisory Group	<i>Procurement Advisory Group</i> means the advisory group established under the Public Procurement Act of Nova Scotia to provide advice and recommendations to advance the outcomes of the Act.
Procurement Governance Secretariat	<i>Procurement Governance Secretariat</i> is a secretariat established under Section 11(1) of the Public Procurement Act.
Procurement Guidelines	Procurement Guidelines are internal guidelines set by the Chief Administrative Officer of the Municipality to guide the procurement decisions of employees involved in procurement.
Procurement Value	The value of the total contract excluding taxes but including all options whether exercised or not. For Facilities this value is determined by the monthly lease/rent times the term of the contract.
Procurement Web Portal	<i>Procurement Web Portal</i> means the public website maintained by the Province of Nova Scotia where all public tender notices are posted.
Public Advertisement	<i>Public Advertisement</i> means advertising a public tender notice on the Provincial procurement web portal.
Public Procurement Act or PPA	<i>Public Procurement Act</i> or <i>PPA</i> means an Act outlining the rules related to the procurement activity of all public sector entities in the Province of Nova Scotia.
Public Tender	<i>Public Tender</i> means procurement for goods, services, construction or facilities obtained through public advertisement. (See Appendix B for an outline of the various tools that may be used for public tender).
Public Tender Notice	<i>Public Tender Notice</i> means a notice of intended procurement for goods, services, construction, or facilities obtained through public advertisement.

Term	Definition
Regulation	Regulations within the meaning of the provincial Regulations Act, are a rule, order, proclamation, regulation, bylaw, form, resolution or tariff of costs or fees made in the exercise of a legislative power conferred by or under an Act of the Legislature. They outline rights and create duties, obligations and responsibilities for the persons that are affected by them. Regulations have the same binding legal effect as Acts made by the Nova Scotia Provincial Legislature, but are not made by the Legislature. The Legislature passes an Act in which it hands over its law-making power to another person or body, such as the Minister. The minister then exercises that law-making power by making regulations. Under the Municipal Government Act, the Minister of Service Nova Scotia and Municipal Relations makes regulations for Municipalities.
Services	<i>Services</i> means those services required by the Municipality for the transaction of its business and affairs, excluding services provided by an employee through a contract of employment/service, as per Canada Revenue Agency guidelines. <i>Services</i> also excludes the provision of consulting services.
Single Source Procurement	A Single Source procurement is one in which two or more vendors can supply the goods and/or perform the services required by the Municipality, but the Municipality selects one vendor over the others for reasons such as expertise, previous municipal or other related experience.
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.
Sole Source Procurement	A Sole Source procurement is one in which only one vendor can supply the goods and/or perform the services required by the Municipality.
Standing Offer	<i>Standing Offer</i> means a contractual arrangement with a supplier to provide certain goods or services on an ‘as required’ basis, during a particular period of time, at a predetermined price or discount, generally within a pre-defined dollar limit. A standing offer does not imply a commitment on the part of the Municipality to acquire any minimum level of goods or services from suppliers/bidders.
Sustainable Procurement	<i>Sustainable Procurement</i> involves taking a holistic approach to obtain best value on behalf of the Municipality. This will be done by integrating the following considerations in the procurement process: <ul style="list-style-type: none"> • environmental considerations (e.g. greenhouse gas reduction, waste reduction, toxic use reduction); • economic considerations (e.g. life cycle cost, fiscal responsibility, support for the local economy); • social considerations (e.g. employee health and safety, inclusiveness and fair wage, health promotion).

POLICY

5.0 INTENT

The Municipality of East Hants (MEH) acknowledges that the taxpayers expect and have the right to receive quality goods and service at reasonable cost. This policy is intended to provide guidelines for the procurement of all goods and services for the Municipality of East Hants based on sound management and public procurement practices. Procurement methods

must be open, fair, transparent and consistent, while being both efficient and effective; procurement methods should reflect the need to make timely decisions and make best use of staff time to reach defensible procurement decisions.

In making expenditures or incurring liability to make expenditures, the Chief Administrative Officer (CAO) and any employee of the Municipality of East Hants to whom the CAO delegates authority to make expenditures, shall comply with all applicable By-law, Policies or Resolutions of Council, the Public Procurement Act, Trade Agreements and with any other restriction imposed by law.

The following policy statements are the directives and rules by which the Municipality of East Hants personnel must follow.

6.0 OBTAINING PRICES

6.1 Low Value Procurement

- a) Goods or services with an estimated value of **up to \$5,000** (excluding taxes) may be acquired by departments in accordance with approved administrative Procurement Guidelines.
- b) Low value procurement of goods, services and construction (as outlined in 6.1 (c)) should be acquired through standing offer or based on written quotations from a minimum of three qualified suppliers. Where three quotations are not available, satisfactory documentation demonstrating the invitation of adequate competition and the attempt to obtain best value must be maintained on file for internal and external audit purposes.

For all procurement as outlined in Section 6.1 (c), the CAO has authority to award business either as a result of negotiation with selected vendors (one or more) or as a sole source purchase, on an exception basis, within the Guidelines for Alternative Procurement circumstances as outlined in Appendix A, the Procurement Process for Architects & Professional Engineering Services and the allowances under Standing Offers.

When selecting the list of suppliers to be provided the opportunity to quote, Municipal personnel will make every effort to ensure a fair and open process is followed. While Municipal personnel are expected to invite only qualified suppliers, they are not to consistently invite bids from only one or a select group of suppliers. Invitations and bidding opportunities are to be equitably distributed among all potential bidders in an area, and all interested and qualified suppliers are to be evaluated on a consistent and equitable basis. Where increased competition is desirable, Municipal personnel may choose to publicly tender for goods, services, construction or facilities that fall within the low value thresholds.

- c) The following table outlines procurement values for low value procurement (all values exclude taxes):

Procurement Category	Range	Procurement Procedure
Goods or Services	\$1 - \$5,000	By departments based on administrative guidelines
Goods	\$5,000 to \$25,000	Use of Standing Offers (Section 6.5) or 6.1 (b)
General Services	\$5,000 to \$25,000	Use of Standing Offers (Section 6.5) or 6.1 (b)

Procurement Category	Range	Procurement Procedure
Services on Standing Offer	\$5,000 - \$100,000	Use of Standing Offers (Section 6.5)
Construction	\$5,000 to \$25,000	Use of Standing Offers (Section 6.5) or 6.1 (b)
Engineering & Architecture	\$1 to \$100,000	See Section 6.6

6.2 High Value Procurement

All procurement activity with a procurement value over the thresholds in Section 6.1 (c) must be obtained through one of the public tendering tools outlined in Appendix B of this Policy (RFP, RFC, RFQ, RSO or REI). Exception to this is when the Municipality chooses an Alternative Procurement for circumstances outlined in Appendix A of this Policy and as defined in Section 6.4.

When Alternative Procurement circumstances as outlined in Appendix A do not apply, Council may single or sole source procurement, where the procurement value is within trade agreement obligations:

- a) \$25,000 or less, in cases where the largest portion of the procurement is for goods;
- b) \$50,000 or less, in cases where the largest portion of the procurement is for services; or
- c) \$100,000 or less, in the case of construction.

Standard procurement (no Alternative Procurement circumstance exist) above these thresholds must be openly publicly tendered (Section 6.3). Some exceptions to this requirement (under trade agreements) are outlined in Section 6.10 of this Policy.

Any exceptions to public tendering should be reviewed against the Agreement on Internal Trade and the Atlantic Procurement Agreement to ensure the Municipality is in compliance with the thresholds in these agreements and the alternate procurement reasons contained therein.

6.3 Public Tenders

Public tendering tools including Request for Proposal (RFP), Request for Construction (RFC), Request for Quotation (RFQ), Request for Standing Offer (RSO) or Request for Expression of Interest (REI) are described in Appendix B of this Policy.

Factors for consideration when public tendering:

- a) All public tender opportunities must be posted on the Province of Nova Scotia Procurement Web Portal. Municipal personnel may wish, where appropriate, to also post to the Municipal website and advertise in local, provincial or national media however there is no obligation to do so. In addition, a notice of tender opportunity may be sent to selected suppliers where required to ensure an adequate degree of competition.
- b) The Municipality must also post on the Procurement Web Portal the name of the successful bidder for the public tender and the contract amount awarded.

- c) Terms and Conditions - Every public tender notice must include or have attached the terms and conditions that govern the purchase of goods, services, construction, or facilities. The terms and conditions of every public tender notice must be consistent with the Atlantic Standard Terms and Conditions for the procurement of goods, services or facilities, and the Construction Contract Guidelines developed in collaboration with the Construction Association of Nova Scotia for the procurement of construction.
- d) In order to ensure all public tenders issued are in compliance with applicable Trade Agreements and the Public Procurement Act all public tenders must proceed as set out in the Municipality of East Hants Procurement Guidelines.

6.4 Alternative Procurement Practices

In order to balance the need for open, competitive process with the demands of urgent or specialized circumstances, alternative procurement circumstances have been developed. These circumstances must be used only for the purposes intended and not to avoid competition or used to discriminate against specific suppliers. To ensure that they are used appropriately, each circumstance must be documented by Municipality personnel stating the rationale permitting the alternative procurement circumstance, and signed by the CAO.

All documents must be filed and maintained for audit purposes.

The Municipality of East Hants has established guidelines for Alternative Procurement circumstances (Appendix A). These guidelines will be monitored by Municipal personnel to ensure this Policy is consistent with current provincial regulations around single source, sole sourcing, exemptions and other alternative procurement processes.

Alternate Procurement Practices may include single or sole sourcing, limited quotes, select invitation to RFP, RFC, RFQ, RSO or REI (defined in Appendix B), or any other means of reasonable and acceptable procurement.

Exceptions to public tendering for high value goods must be reported to Council as per Section 10.2 of this Policy.

6.5 Standing Offers

To create the Standing Offers list the Province of Nova Scotia goes through the public tendering process to establish a list of qualified vendors for predetermined goods and services with set pricing for a period of time. Municipal personnel may access all Province of Nova Scotia General standing offers (Limited standing offers are not available to the MASH sector), as well as any standing offers established through the Nova Scotia Procurement Advisory Group when use of these standing offers represents best value to the Municipality. The Municipality may establish municipal standing offers through a public tendering process.

Standing offers can be used up to \$25,000 per project for goods, or \$100,000 per project for services. From a contract management perspective, the Municipality should prepare a Statement of Work for the procurement of services. The detail of the Statement of Work should be relative to the value of the procurement.

When the value of the procurement for services is estimated at over \$25,000 (and under \$100,000) the Municipality should obtain a minimum of 3 quotes from vendors on the standing offer. Where three quotations are not available, satisfactory documentation demonstrating the invitation of adequate competition and the attempt to obtain best value must be maintained on file for internal and external audit purposes.

For procurement of Architectural and Professional Engineering services refer to Section 6.6 of this Policy.

6.6 Architects and Professional Engineering Services

The Municipality recognizes that certain professional services, such as design services, may have a significant influence on a project's subsequent construction, maintenance and operations costs. The extent of this influence is often disproportionate to the direct price of the professional services procured. Accordingly, the Municipality has adopted the Provincial procurement procedure for the procurement of Architectural and Professional Engineering Services. These procurement procedures are designed to encourage the use of Qualifications-Based-Selection (QBS) concepts while at the same time preserving the important role of price competition and recognizing the significant effort associated with preparing procurement documentation. These procedures will provide architects and professional engineers an opportunity to compete fairly and openly on the basis of their business and professional qualifications. Important characteristics such as technical competency, management expertise and administrative control processes are given extensive consideration while preserving the principle of best value for the Municipality.

The procedure incorporates two procurement methods. Architectural and Engineering service assignments with fees estimated to have a value less than \$100,000, may be procured using a standing offer which lists basic qualifications and, where necessary, may involve the subsequent evaluation of each proponent's project specific submission. Architectural and Engineering service assignments with fees estimated by the Municipality to have a value greater than \$100,000, will be procured by public tender (as outlined in the Procurement Process: Architects & Professional Engineering Services), with notice being given on the electronic public bid notice system and advertisement through public media.

The Procurement Process: Architects & Professional Engineering Services can be found on the public procurement web site - http://www.novascotia.ca/tenders/policy/pdf_files/A_E_services.pdf

Engineering or Architectural services may be procured by the Municipality through the Provincial process or through the standard procurement guidelines and procedures outlined in this Policy.

6.7 Unsolicited Proposals

Where an unsolicited proposal is received by the Municipality as is deemed to warrant further investigation, the proposal may, at the discretion of the CAO, be evaluated using the Province of Nova Scotia Guide to the Submission & Evaluation of Unsolicited Proposals.

6.8 Cooperative Procurement

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

6.9 Multi-Year Contracts

Where deemed appropriate by the CAO, procurement may be sought for a multi-year term (term not to exceed five years). The overall value of the contract should be the value used to choose the procurement method. Providing for a cost of living or other acceptable price escalation clause for the extension of the contract is permissible (with the approval of the CAO), with any contract generally not exceeding five years and should be dependent on satisfactory service from the supplier.

6.10 Trade Agreement Exemptions

The Municipality requires all procurement be done within the allowances of this Policy. It should be noted that there are no requirements within trade agreements to publicly tender for:

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

6.11 Permanent Exemptions

Individual departments may apply to the CAO for a permanent exemption for certain goods or services that are considered by the CAO not to be subject to tender and would generally be covered by an alternative procurement circumstance. The process for applying for this exemption shall be outlined in the Procurement Guidelines. A list of permanent exemptions will be made available to Council on an annual basis.

6.12 Emergency Situations

In an emergency situation the CAO is authorized to make reasonable and informed procurement decisions which are determined by him/her to be necessary and are being made in the best interest of the Municipality. The CAO may deem these decisions necessary in order to protect the legal interests or to satisfy legal obligations of the Municipality, or involve a situation where failure to act could reasonably be expected to compromise Municipal confidentiality, cause economic disruption, or would otherwise be contrary to the public interest.

When this clause is invoked, the situation will be reported to Council as per Section 10.2 of this Policy.

7.0 BID OPENING, EVALUATION AND AWARD

7.1 Bid Opening

Bids are accepted in accordance with the closing time, date, and place stipulated in the bid request documents.

7.2 Bid Evaluation

All bids are subject to evaluation after opening and before award of contract. The bid request documents must clearly identify the requirements of the procurement, the evaluation method, evaluation criteria based on the purpose and objectives of this Policy, and the weights assigned to each criterion.

7.3 Award

The winning bidder and contract award amount for all publicly tendered high value procurement activity must be posted on the Province of Nova Scotia's Procurement Web Portal. After contracts have been awarded, routine access to information at the vendors request shall be provided in the following areas:

- Bidders list;
- Name of winning bidder;
- Award price excluding taxes of the winning bidder.

Access to tender documents or other proprietary information is subject to the provisions of the Freedom of Information and Protection of Privacy Act.

The CAO may award publicly or invited tenders provided award is made to the vendor who scores the highest marks in a formal bid evaluation.

7.4 Contract & Risk Management

Section 12 (g) of the *Public Procurement Act* requires Municipal personnel to adopt contract and risk-management guidelines. These guidelines shall be established by the CAO.

7.5 Supplier Debriefing

At the request of a supplier who submitted a bid, the Municipality will conduct a supplier debriefing session to provide feedback on the evaluation of the public tender. If requested by the supplier, information will be provided such as that supplier's scoring against the published criteria, comments on the supplier's submitted bid, and general information on how future bids may be improved. Supplier's bids are not compared to other bids, nor will information on other bids be provided.

7.6 Supplier Complaint Process (SCP)

The availability of a Supplier Complaint Process is an integral part of a fair and open procurement policy. When a supplier is not satisfied with the methods of procurement used by the Municipality, the supplier is encouraged to file a formal complaint with the Municipal Clerk who shall commence an internal review of the process. The Municipal SCP is outlined in Appendix C of this Policy.

If the supplier is not satisfied with the result of that review, the Public Procurement Act, Section 18, outlines an independent Supplier Complaint Process. The SCP is not a dispute resolution process, but rather is intended to hold public sector entities accountable for using procurement methods consistent with the purpose of the Public Procurement Act.

8.0 LOCAL PREFERENCE

8.1 Local Goods

Section 13 of the *Public Procurement Act* allows for preference to be given to suppliers of goods which are manufactured or produced in the Province when the value of the procurement is below the \$25,000 threshold (low value threshold of the Atlantic Procurement Agreement).

Below the low value procurement threshold of \$25,000, Municipal personnel (with the authorization of the CAO) may:

- Choose to apply a Nova Scotia preference to the procurement;
- Restrict the receipt of quotations to those of Nova Scotia suppliers;
- Accept, reject, consider and evaluate bids from other jurisdictions on the same basis that the purchasing authorities jurisdiction would treat a bid from a Nova Scotia supplier.

Based on the principle of best value for the Municipality and when deemed to be in the best interest of the Municipality, the CAO may apply this preference to the procurement of Nova Scotia goods (not services).

Trade agreements reference a term called Reciprocity (Appendix D) which deals with the fair treatment of vendors between jurisdictions. Although rare in its application in municipal procurement, Appendix D outlines when Municipal personnel should be concerned with the principle of reciprocity and how to deal with these circumstances.

9.0 SUSTAINABLE PROCUREMENT

Sustainable Procurement involves taking a holistic approach to obtain best value for the Municipality. Where possible and where it is in the best interest of the Municipality to do so, Municipal personnel may integrate the following considerations in the procurement process:

- a) Environmental considerations: e.g. Green House Gas Reduction, Waste Reduction, Toxic Use Reduction
- b) Economic considerations: e.g. Life Cycle Cost, Fiscal Responsibility, Support for the Local Economy

- c) Social considerations: e.g. Employee Health and Safety, Inclusiveness and Fair Wage, Health Promotion

All requests for quotations and notices of public tender must list the sustainability criteria that apply to the procurement.

10.0 OTHER CONSIDERATIONS

In addition to the areas already covered by this Policy, the following are additional obligations of the Public Procurement Act that the Municipality is required to adhere to with municipal procurement practices.

10.1 Code of Ethics

Municipal personnel and Councillors must ensure their conduct in relation to procurement activity is consistent with the duties of public sector employees as outlined in the *Public Procurement Act*. This includes a request for removal from a procurement activity when a personal conflict of interest exists or may be perceived to exist.

All Municipal personnel involved with public procurement shall be familiar with the Competition Bureau of Canada bid rigging awareness and prevention guidelines and the Municipality shall adopt applicable practices supporting these guidelines.

Pursuant to section 15 (1) of the *Public Procurement Act*, all employees involved in procurement on behalf of the Municipality must:

- a) ensure their procurement activities are conducted according to policies, provincial and federal legislation, trade agreements and ethical business practices;
- b) encourage and support collaborative procurement amongst public sector entities;
- c) follow leading procurement practices;
- d) in good faith, conduct business with current and prospective suppliers and be fair in all business dealings;
- e) strive to obtain the best value for each expenditure;
- f) require suppliers provide accurate representations of goods, services and construction;
- g) encourage suppliers to consider sustainability in their product or service offerings;
- h) encourage the negotiation of an equitable and mutually acceptable settlement when a dispute arises; and
- i) request removal from a procurement process when a personal conflict of interest is perceived.

10.2 Posting Policy

A copy of the Procurement Policy must be posted on the Municipality of East Hants public website.

10.3 Supplier Development Activities

Municipal personnel will make every attempt, where appropriate, to participate in vendor outreach activities conducted by the Procurement Governance Secretariat.

10.2 Regulations and Guidelines

The CAO will ensure procurement practices remain consistent with any regulations that are adopted under the *Public Procurement Act*.

The CAO will ensure a full set of procurement guidelines are in place to guide municipal staff in procuring goods and services in compliance with the *Public Procurement Act* and related regulations, this Policy and with industry standards.

10.2 Reporting

In compliance with section 12 (k) of The *Public Procurement Act* the Municipality shall submit all legislated reports to the Provincial government with respect to procurement policies and activity.

It is the responsibility of the CAO to ensure any reporting to Council under the policy is done in a timely manner. Reports for information will be posted to the Council web site and presented to Council upon request by Council.

11.0 AMENDMENTS

This policy may be amended from time to time with the approval of Municipal of East Hants Council. Such amendments will be communicated to the public on the Municipal website.

12.0 COMPLIANCE

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

GOVERNANCE

ROLES AND RESPONSIBILITIES

Title/Role	Responsibilities
Policy Owner	The policy owner (see Version Log Section) is responsible for ensuring that the policy is implemented and being followed. In addition, the policy owner is responsible for reviewing the policy on a yearly basis for relevancy and potential updates.
Municipality of East Hants Staff	All personnel that fall within the scope of this policy (see Scope Section) must follow the policy statements within this document and must follow the governing authority of the policy owner.



RELATED DOCUMENTATION

Document	External Link
Agreement on Internal Trade	http://www.ait-aci.ca/en/ait/ait_en.pdf
Atlantic Procurement Agreement	http://www.cap-cpma.ca/images/CAP/Procurement%20Agreement%20English.pdf
Canada-US Agreement on Government Procurement	http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/other-autre/us-eu.aspx?lang=eng
Public Procurement Act	http://nslegislature.ca/legc/bills/61st_3rd/3rd_read/b023.htm
Procurement Process: Architects & Professional Engineering Services	http://gov.ns.ca/tenders/media/2294/a_e_services.pdf
Province of Nova Scotia Guide to the Submission & Evaluation of Unsolicited Proposals.	http://www.gov.ns.ca/tenders/policy/pdf_files/unsolprofinal.pdf
Procurement Process: Purchasing From a Standard Offer	https://www.gov.ns.ca/tenders/policy/pdf_files/standing_offer_info_cd.pdf

VERSION LOG

Version Number	Amendment Description	Amendment/Policy Owner	Approved By	Approval Date
1.0	Creation of Procurement Policy in compliance with the Public Procurement Act. Split old policy between a Procurement Policy and the Budget Management Policy.	Chief Administrative Officer	Council	September 26 th , 2012



APPENDIX A - ALTERNATIVE PROCUREMENT CIRCUMSTANCES

The CAO may authorize Alternative Procurement Practices* in the circumstances described below for the procurement of goods, services, construction or facilities, where the procurement value is:

- a) \$25,000 or less, in cases where the largest portion of the procurement is for goods;
- b) \$50,000 or less, in cases where the largest portion of the procurement is for services; or
- c) \$100,000 or less, in the case of construction.

*Only Council can make single source decisions over \$25,000.

1. Where prior open competitive processes (by the Municipality or other organizations in the public sector) have clearly pointed to one or a few suppliers and the CAO is confident that the issuance of a public tender would return similar results.
2. Where the cost (administrative, consulting, etc.) of a public tender process is felt to outweigh any cost savings that may be enjoyed as a result of the process (this will be in large part measured by the amount of work necessary to ensure the document specifications are accurate and complete so as to validate the public tender process).
3. Where it is necessary to protect the legal interests of the Municipality.
4. Where the extension of an existing contract is in the best financial/operational interest of the Municipality and does not violate conditions of prior procurement processes.
5. Where the number of potential vendors who could reasonable provide the good/service are limited such that it is more efficient to selectively invite quotations/proposals rather than issue an open tender document.
6. Where an item/service is being acquired on a trial basis.
7. Where time is of the essence.

The CAO may authorize Alternative Procurement Practices in the circumstances described below for the procurement of goods, services, construction or facilities, with **no threshold restrictions** (consistent with Chapter 5 - Agreement on Internal Trade):

8. Where an unforeseeable situation of urgency or emergency exists and the goods, services or construction cannot be obtained in time by means of open procurement procedures.

9. 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.
10. 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.
11. In the absence of tenders in response to an open or selective tender, or when the tenders submitted have been collusive, or not in conformity with the essential requirements in the tender.
12. To ensure compatibility with existing products; where specific existing knowledge of a vendor of Municipal equipment/operations is a critical consideration; to recognize exclusive rights, such as exclusive licenses, copyright and patent rights; or to maintain specialized products that must be maintained by the manufacturer or its representative.
13. 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.
14. For the procurement of goods or services when market supply dictates; the supply of goods or services in short supply or which is controlled by a supplier that is a statutory monopoly.
15. For the purchase of goods on a commodity market.
16. Where a lease to purchase option is being exercised or for work to be performed on or about a leased building or portions thereof that may be performed only by the lessor.
17. 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.
18. For a contract to be awarded to the winner of a design contest.
19. 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.
20. Where it is in the financial/operational interest of the Municipality to bid or tender on or otherwise purchase a particular item under exceptionally advantageous circumstances such as used goods, bankruptcy or receivership, but not for routine purchases.



21. For the procurement of original works of art.
22. For the procurement of subscriptions to newspapers, magazines or other periodicals.
23. For the procurement of real property.
24. For the procurement of goods intended for resale to the public.
25. For the procurement from philanthropic institutions, prison labour, persons with disabilities, sheltered workshop programs or through employment equity programs.
26. For the procurement from a public body or a non-profit organization.
27. For the procurement of services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation.

APPENDIX B - PUBLIC TENDERING

Below is an outline of some of the various tools available for use when issuing a public tender.

- ***Request for Proposal (RFP)***

Used when a supplier is invited to propose a solution to a problem, requirement, or objective. Suppliers are requested to submit detailed proposals (bids) in accordance with predefined evaluation criteria. The selection of the successful proposal is based on the effectiveness, value, and price of the proposed solution.

- ***Request for Construction (RFC)***

Used to publicly tender for a construction, reconstruction, demolition, remediation, repair or renovation of a building, structure, road, bridge or other engineering or architectural work. When a supplier is invited to bid on a construction project the tender documents usually contain a set of terms and conditions and separate bid form that apply to that specific project. Suppliers are requested to submit a response (bid) in accordance with predefined criteria. The selection of the successful proposal is based on a number of factors as described in the tender documents. A request for construction usually does not include professional consulting services related to the construction contract, unless they are included in the specifications.

- ***Request for Quotation (RFQ)***

A request for quotation on goods or products with a minimum specification. Award is usually made based on the lowest price meeting the specification. An RFQ does not normally but may sometimes include evaluation criteria.

- ***Request for Standing Offer (RSO)***

A public tender to provide commonly used goods or services. The term of the standing offer can vary in duration but will be clearly defined in the tender documents. RSO's may include evaluation criteria depending on the requirement.

- ***Request for Expression of Interest (REI)***

The Request for the Expression of Interest is similar to the Request for Proposal and is sometimes referred to as a Pre-Qualification, where suppliers are invited to propose a solution to a problem. The REI, however, is only the first stage in the procurement process. Bidders responding to the REI will be short listed according to their scoring in the evaluation process. The short listed firms will then be invited to respond to a subsequent Request for Proposal. A REI does not normally include pricing as price is a key evaluation criteria used in the second stage RFP process.

APPENDIX C - SUPPLIER COMPLAINT PROCESS (SCP)

A method to handle supplier complaints and to improve the municipality's procurement process is an integral part of a fair and open procurement policy. The following procedures facilitate this objective, allowing the municipality to handle complaints in an organized, consistent manner, and to carry out the analysis and reporting requirements in order to improve upon the procurement process.

A complaint means a written objection submitted by a potential supplier regarding a bid solicitation, contract award or proposed contract award for goods, services, facilities or construction.

Supplier complaints and protests originate for a number of reasons, real or perceived; however, all of these reasons negatively reflect on the integrity of the municipal procurement process. Some reasons are:

- **specifications that are seen as vague or incomplete (complaints should be received prior to tender close)**
- **bid preparation time too short to properly reply (complaints should be received prior to tender close)**
- **specifications perceived as unfair, predetermined, or arbitrary (complaints should be received prior to tender close)**
- **inconsistent application of procurement procedures**
- **violation of an applicable Trade Agreement**

Prior to initiating a complaint, suppliers are strongly encouraged to resolve problems by contacting the department involved as the first step in the process. Experience has demonstrated that there are often minor errors, omissions or other inadvertent actions which can be quickly clarified or corrected to the satisfaction of the complainant, thus removing the cause of many complaints and concerns at the outset. For the purpose of clarity, the VCP is not adjudicative in nature and does not establish mechanisms to adjudicate substantive disputes. The VCP provides an opportunity for vendors to voice complaints and may sometimes help to resolve complaints that involve no significant factual or interpretative disagreements between the parties. Fundamental disputes over facts or over legal rights and obligations are, however, beyond the scope of the VCP.

Applicability

This complaint process applies to all procurement activity carried out by the Municipality of East Hants. This process is an extension of the Province of Nova Scotia's Vendor Complaint Process, which forms part of its Sustainable Procurement Policy. Where this document is silent on an issue; the Province of Nova Scotia's Vendor Complaint Policy applies.

Complaint Submission

Complaints are to be submitted in written form within 10 working days after a notice of contract award to:

Vendor Complaints
Municipal Clerk
Municipality of East Hants
P.O. Box 190
Shubenacadie, NS
B0N 2H0

Contract notice is the date when the award is posted to the Province of Nova Scotia's Procurement Services website or bidders are otherwise formally notified. Complaints should contain the following information:

- The name, phone number/fax, e-mail, address and contact person of the firm submitting the complaint.
- The nature of the problem being encountered.
- A description of the background leading to the problem, including relevant dates, tenders reference numbers etc.;
- The department representative contacted to review the problem originally and the results of those discussions.
- Actions being requested of the Municipality.

Complaint Process Related to the Municipality's Procurement Policy or Practice

The Municipal Clerk shall ensure that every department affords aggrieved persons an opportunity to present any complaint regarding the municipal procurement process.

On a case-by-case basis, the Municipal Clerk may delegate the review of a complaint to the Director of Finance or undertake the investigation him/herself.

On receipt of a complaint, the Municipal Clerk shall review the complaint to determine if further action is appropriate. A complaint may be dismissed without further consideration, where in the opinion of the Municipal Clerk, the complaint:

- a) on its face is frivolous or invalid,
- b) the complainant is not a participant in the competitive process (i.e. did not submit a bid),
- c) is made more than 10 working days after a notice of a contract award, or
- d) is otherwise inappropriate for consideration.

If at this point the complaint is not dismissed, the Municipal Clerk will contact the Director of the department concerned to determine if the complaint has already been addressed. If not, the Municipal Clerk will gather the appropriate competition documents, conduct interviews with department staff and if s/he deems necessary, meet with the complaining party. If the Municipal Clerk deems it necessary, legal counsel may be sought.

At this point the complaint may be resolved, withdrawn or dismissed if in the opinion of the Municipal Clerk, it is the result of a properly applied fair procurement process. If dismissed, a reply to the complaint will be prepared by the Municipal Clerk and forwarded to the complainant. A record of the dismissal of the complaint will be retained by Municipal Clerk, for subsequent reporting to the Council.

Replies to a Complaint

The Municipal Clerk will make every effort to acknowledge a formal complaint within 10 working days of receipt and to respond in writing no later than 10 working days after completion of any review. If the investigation extends longer than 20 working days, the vendor will be advised, in writing, when they may expect a response. Under all circumstances, responses are to be made in a timely fashion.

Reports

The Municipal Clerk and department Directors shall ensure that complete documentation and records, including records of all communications with suppliers, are maintained. This will allow later verification by participants, auditors or senior officials to show that the procurement process was carried out in accordance with the municipal Procurement Policy and that the complaint was handled in a timely fashion.

APPENDIX D - RECIPROCITY

The concept of reciprocity falls under fairness and local preference. It is a rare case that principles of reciprocity would come into play with Municipal purchases; in these cases Municipal staff must contact government of Nova Scotia procurement personnel for advice and guidance on how to proceed.

Nova Scotia Vendors

Since not all provincial jurisdictions are prepared to provide reciprocal access to goods, services or construction requirements valued at less than Agreement on Internal Trade thresholds, the principles of fairness demand that Nova Scotia reserve the right to apply comparable limitations on access.

The Municipality, in consultation with the Provincial Department responsible for Procurement Services, reserves the right to accept or reject, consider and evaluate bids from other jurisdictions on the same basis that the purchasing authorities in those jurisdictions would treat a Nova Scotia supplier for a similar requirement. Out of province suppliers who choose to respond to an opportunity would do so with the understanding that their submission may be rejected due to the practices of their home province. The Municipality may consider at its sole discretion best overall value in a decision to accept a bid from a non-reciprocating provincial jurisdiction.

Atlantic Vendors

The Atlantic Canadian provinces are committed to providing fair and reciprocal access to business opportunities and to ensuring that the supplier community receives fair treatment in their dealings elsewhere in Canada. Based on the principles of the Atlantic Procurement Agreement and in the same context as outlined above the Municipality may, in consultation with Procurement Services, reject a bid from a non-reciprocating provincial jurisdiction valued at less than Agreement on Internal Trade thresholds in favor of another Atlantic Provinces bidder.

The Agreement on Internal Trade can be found at - http://www.ait-aci.ca/en/ait/ait_en.pdf .

Current thresholds for MASH sector units in the Agreement on Internal Trade are:

- \$100,000 or greater, in the case of goods or services; or
- \$250,000 or greater, in the case of construction.