



Town of Antigonish Procurement Policy

Purpose

To provide guidelines for the procurement of all goods and services for the Town of Antigonish based on sound management and public procurement practices. Procurement methods shall 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.

1.0 Definitions

In this policy:

- a. “alternative procurement practice” means the purchase of goods or services without a public tender or other competitive process;
- b. “best value” means 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, warranty details and the capacity of the supplier to meet other criteria as stated in tender documents;
- c. “bid” means a supplier response to a public tender notice to provide goods, services, construction, or facilities;
- d. “bidder” means a person, firm or corporation who submits a bid;
- e. “construction” 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;
- f. “Construction Contract Guidelines” means standard instructions developed in consultation with the Construction Association of Nova Scotia;
- g. “goods” means materials, furniture, merchandise, equipment, stationary and other supplies required by the Town of Antigonish for the transaction of its business and affairs and includes services that are incidental to the provision of such supplies;
- h. “life cycle cost” means the total costs associated with a product or asset over its life span, including the cost of maintenance, repair, operation and disposal;
- i. “*Public Procurement Act*” means an Act outlining the rules related to the procurement activity of all public sector entities in the Province of Nova Scotia;
- j. “public tender” means procurement for goods, services, construction or facilities obtained through public advertisement;

- k. "request for proposals" means a formal invitation to suppliers to describe how their services, methods, equipment or products can address and/or meet the needs of the Town of Antigonish;
- l. "request for quotations" means informally obtaining price quotations from a number of different suppliers;
- m. "services" means those services required by the Town of Antigonish for the transaction of its business and affairs, excluding services provided by an employee through a personal services contract;
- n. "standing offer" 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 Town to acquire any minimum level of goods or services from suppliers/bidders;
- o. "traditional tender" means a formal invitation to suppliers to submit a bid to supply specified goods or services.

2.0 Scope

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

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

3.0 Principles

- 3.1 All procurement carried out by the Town of Antigonish must be carried out with a view to:
 - a. ensuring an equitable, open and transparent process for the acquisition of goods and services by the Town of Antigonish;
 - b. avoiding dishonesty, corruption or favouritism in the procurement of goods and services;
 - c. encouraging competitive bidding wherever possible and, in any event, minimizing the Town of Antigonish's cost of acquiring goods and services while obtaining best value;
 - d. utilizing suppliers who can be expected to provide satisfactory performance;

- e. taking into account environmental considerations in all procurement decisions and selecting environmentally beneficial goods and services where practical;
- f. complying with applicable regional, national, and international trade agreements, including the Agreement on Internal Trade and the Atlantic Procurement Agreement;
- g. complying with the *Public Procurement Act*, S.N.S. 2011, c. 12 and regulations made pursuant to the *Public Procurement Act*.

3.2 Pursuant to s. 15(1) of the *Public Procurement Act*, all employees involved in procurement on behalf of the Town of Antigonish must:

- a. ensure their procurement activities are conducted according to this policy, provincial and federal legislation, trade agreements and ethical business practices;
- b. encourage and support collaborative procurement amongst other municipalities and public sector entities such as hospitals and school boards;
- 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 integrating environmental, economic and social considerations in their product or service offerings;
- h. encourage the negotiation of an equitable and mutually acceptable settlement when a dispute arises;
- i. request removal from a procurement process when a personal conflict of interest is perceived.

4.0 Normal Procurement Practices

4.1 For goods or services with an estimated value of **less than \$2,500**:

- a. the procurement decision must be made by the applicable Department Head or by an employee designated by the Department Head;
- b. goods and services must be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value;
- c. if the goods or services cannot be procured under subsection (b), the goods or services may be purchased based on formal or informal written quotations from a minimum of three qualified suppliers. Where three quotations are not available, 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.

- 4.2 For goods and services with an estimated value **between \$2,500 and \$25,000**:
 - a. the procurement decision must be made by the applicable Department Head or by an employee designated by the Department Head;
 - b. goods and services must be procured under a standing offer if one exists for the goods or services required, and if doing so will provide best value;
 - c. if the goods or services can not be procured under subsection (b), the goods or services must be procured by a request for quotations.
- 4.3 For goods and services with an estimated value of **more than \$25,000, contained in the approved budget**:
 - a. the procurement decision must be made by the applicable Department Head;
 - b. goods and services must be procured by public tender.
- 4.4 For goods and services with an estimated value of **more than \$25,000, not contained in the approved budget**:
 - a. the procurement decision must be made by Council;
 - b. goods and services must be procured by public tender.

5.0 Alternative Procurement Practices

- 5.1 In order to balance the need for open, competitive process with the demands of urgent or specialized circumstances, alternative procurement circumstances may be followed. These practices must be used only for the purposes intended and not to avoid competition or to discriminate against specific suppliers.
- 5.2 When an alternative procurement purchase occurs, the reason for doing so must be documented and include the rationale permitting the alternative procurement circumstances. This documentation must be signed by the Chief Administrative Officer. Council shall be informed within 2 business days following the use of an Alternative Procurement Practice.
- 5.3 The Chief Administrative Officer may authorize Alternative Procurement Practices in the circumstances as described below.
 - a. Where an unforeseeable situation of urgency exists and the goods, services or construction cannot be obtained in time by means of open procurement procedures.
 - b. 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.

- c. Where compliance with the open tendering provisions set out in this policy would interfere with the Town's ability to maintain security or order or to protect human, animal or plant life or health.
- d. 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.
- e. To ensure compatibility with existing products, 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.
- f. 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.
- g. For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly.
- h. For the purchase of goods on a commodity market.
- i. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor.
- j. 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.
- k. 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.
- l. For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.
- m. For the procurement of original works of art.
- n. For the procurement of subscriptions to newspapers, magazines or other periodicals.
- o. For the procurement of real property.
- p. For the procurement of goods intended for resale to the public.
- q. For procurement from philanthropic institutions, prison labour, persons with disabilities, sheltered workshop programs or through employment equity programs.
- r. For procurement from a public body or a non-profit organization.
- s. For the procurement of services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation.

6.0 Trade Agreement Exemptions

The Town of Antigonish requires all procurement be conducted 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 such as 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.

7.0 Cooperative Procurement

Town 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.

8.0 Methods of Procurement

8.1 A **standing offer** includes:

- a. a standing agreement between the Town of Antigonish and a supplier in which the supplier commits to providing specified goods or services at a specific price for a specific period of time. Such standing agreements should themselves be the subject of a competitive tender process;
- b. equipment leasing programs through the Government of Nova Scotia;
- c. Nova Scotia Provincial "standing offers" administered by the Nova Scotia Government;
- d. supplies and services available from the Nova Scotia Government;
- e. a procurement program administered by the Union of Nova Scotia Municipalities or the Association of Municipal Administrators;
- f. any other program available to several municipal units and other public sector entities, provided that municipal staff is satisfied that such program has been developed and conforms with the principles set out in this policy.

8.2 Request for **quotations**:

- a. Quotations must normally be sought from at least three suppliers but fewer suppliers may be used when three suppliers are not 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. If it is decided to obtain fewer than three quotations, the person responsible for that decision must document their reasons for doing so.

- b. Quotations must normally be obtained in writing, but when time does not permit the obtaining of written quotations, the quotations may be obtained verbally, except when this policy stipulates otherwise. If a quotation is obtained verbally, the person obtaining it must 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 staff obtaining the quotation.

8.3 Public tenders can be in the form of a traditional tender (section 8.3.a) or request for proposals (section 8.3.b):

a. Traditional tender:

- i. A traditional tender should be used when the procurement requirements of the Town of Antigonish can be clearly and completely specified.
- ii. 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 must be made available to each bidder after the tenders are opened.
- iii. The Town of Antigonish must not negotiate with any bidders, but must award the procurement contract to the bidder that meets the tender requirements and provides best value.

b. Request for proposals:

- i. A request for proposals may be used when the Town of Antigonish 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. A request for proposals may also be used for professional and consulting services.
- ii. In order to preserve confidentiality of sensitive commercial information contained in a proposal, proposals submitted in response to a request for a proposal must be opened in the presence of at least two representatives of the Town of Antigonish, and after the proposals are opened a list of the proponents must be available to the public and the proponents upon request.
- iii. Negotiations may be conducted with a proponent after proposals have been opened, subject to complying with the terms of the request for proposals which must be drafted to avoid unfair "bid-shopping" by the Town of Antigonish.
- iv. The Town of Antigonish must award the procurement contract to the supplier whose proposal is determined to provide best value to the Town of Antigonish based upon the evaluation criteria set out in the request for proposals and equitably applied to all proposals.

9.0 Requirements for all Public Tenders

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

- 9.1 The Town of Antigonish must provide reasonable notice and opportunity to respond to public tenders, and must post or place notices of public tenders as follows:
 - a. on the public website maintained and operated by the government of Nova Scotia;
 - b. on the Town of Antigonish website;
 - c. in other media, as directed by the Chief Administrative Officer, when it is determined that the cost and nature of the procurement warrants the expense of doing so.
- 9.2 Every public tender must include or have attached the terms and conditions that govern the tender. The terms and conditions of every notice of public tender must be consistent with:
 - a. 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, for the procurement of goods and services;
 - b. the standard instructions that support construction tenders issued by the government of Nova Scotia, known as the Construction Contract Guidelines, for the procurement of construction.
- 9.3 Public tenders should normally include specifications or terms as follows:
 - a. expressly or by implication outlining the issues or criteria that will be used for selection of a successful bidder or proponent;
 - b. a privilege clause stating that the lowest or any bid or proposal will not necessarily be accepted;
 - c. the location for delivery of bids or proposals;
 - d. the means of delivery of bids or proposals, e.g., whether faxes or e-mails are acceptable in addition to "hard copy" submissions;
 - e. the time and date of closing;
 - f. 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 must 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*;
 - g. for design or architectural services, a statement that the Town of Antigonish will own the copyright in the design, plans and other intellectual property produced for the Town.

- 9.4 Public tenders should also include a form of contract that the successful bidder will be required to enter into with the Town of Antigonish, or should direct that bidders or proponents must provide the form of contract with their bid or proposal.
- 9.5 For each public tender that is awarded, the Town of Antigonish must post the name of the successful supplier and the contract amount on the public website maintained and operated by the government of Nova Scotia.
- 9.6 The terms and conditions of every public tender must state the criteria that the Town of Antigonish 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, past performance, delivery, servicing and the capacity of the supplier.
- 9.7 All bidders shall be notified in writing of the Town's decision on a public tender.

10.0 Supplier Debriefing

Pursuant to s. 17 of the *Public Procurement Act*, upon the request of a supplier submitted a rejected bid, the Town of Antigonish shall conduct a debriefing with that supplier to provide feedback on the evaluation of the public tender. The debriefing must be conducted as follows:

- a. the Chief Administrative Officer shall conduct the debriefing;
- b. the debriefing must 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;
- c. the debriefing must also provide information to the supplier on how to improve future submissions;
- d. the debriefing must not disclose any information regarding other bidders or their submissions.

11.0 Contract and Risk Management

Section 12(g) of the *Public Procurement Act* requires municipalities to adopt contract and risk-management guidelines. These guidelines shall be established by the Chief Administrative Officer.

12.0 Disposal of Surplus Equipment

- 12.1 Goods, supplies and assets which are declared surplus by the Department Head or Chief Administrative Officer shall be offered to other departments of the Town of Antigonish, or sold in the most efficient manner to obtain the highest return by trade-in (vehicles and equipment), request for quotation, public tender or public auction in accordance with this policy.
- 12.2 Elected officials and employees of the Town of Antigonish or their agents shall not be permitted to bid on the purchase of surplus material.

13.0 Conflicts of Interest

If a staff member otherwise authorized to award a contract has a conflict of interest, the award must be made by the person to whom the conflicted staff member normally reports and the conflicted staff member must not participate in the procurement process related to the contract in any manner.

14.0 Duration of Contracts

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 5 years but may be re-tendered more frequently at the direction of Council.

15.0 Lease Arrangements

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

16.0 Approval of Form of Tender

Public tendering documents are to be reviewed by the Chief Administrative Officer or his or her designate prior to issuance to ensure consistency of tendering documents and practices.

17.0 Fees

The Town may charge a fee or deposit to interested parties prior to being given tender documents.

18.0 Posting on the Town of Antigonish Website

A copy of this policy must be posted on the Town of Antigonish website.

19.0 Compliance with Policy

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

20.0 Reporting

The Town of Antigonish shall submit all legislated reports to the Provincial government with respect to procurement policies and activity, as required by section 12(k) of the *Public Procurement Act*.

21.0 Previous Policies

Any previous purchasing and tendering policies of the Town of Antigonish are hereby repealed.

CAO's Annotation for Official Policy Book

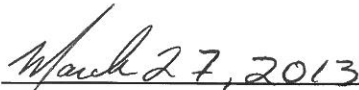
Date of Notice to Council Members of Intent To Consider (Minimum 7 Days): **March 18, 2013**

Date of Passage of Current Policy: **March 25, 2013**

I certify that this Policy was adopted by Council as indicated above.



Chief Administrative Officer



Date