



CORPORATION OF THE TOWNSHIP OF PRINCE
PROCUREMENT BY-LAW

BY-LAW No. 2019-37

Being a By-Law governing procurement policies and procedures

WHEREAS Section 270 (1) of the Municipal Act, S.O. 2001, c.25 imposes upon municipalities the obligation to adopt policies with respect to the procurement of Goods and Services.;

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

AND WHEREAS Council's priority is to provide the best value for dollars spent, not just the lowest bid and to conduct business in an open and transparent way; **ADDED**

NOW THEREFORE the Council of The Corporation of the Township of Prince hereby enacts as follows:

PART 1. Short Title

1.1 This by-law may be cited as the 'Procurement By-Law'.

PART 2. Purposes, Goals and Objectives

- 2.1 The purposes, goals and objectives of this by-law and of each of the methods of procurement authorized are:
- (i) To encourage competition among suppliers
 - (ii) To maximize savings for taxpayers
 - (iii) To ensure the highest quality of goods and services for the best possible price
 - (iv) To ensure fairness among bidders
 - (v) To ensure openness, accountability and transparency while protecting the financial best interests of The Corporation
 - (vi) To have regard to the accessibility for persons with disabilities to the Goods and Services and Construction purchased by The Corporation
 - (vii) To ensure a process that permits all suppliers a fair opportunity to provide Goods and Services to the municipality

PART 3. Definitions

The words and phrases listed below when used in this By-Law shall have the following meanings ascribed to them:

- 3.1 **"Award, Awarded and Awarding"** shall mean authorization to proceed with the purchase of Goods and Service and Construction from a chosen supplier
- 3.2 **"Bid"** shall mean a specific price for specific work
- 3.3 **"Bidder"** shall mean a contractor/supplier who has submitted a tender bid
- 3.4 **"Best Value"** shall mean, not limited to the lowest price but shall be a combination of price and quality. Such determination shall be left up to the discretion of Council
- 3.5 **"Corporation, The"** shall mean The Corporation of the Township of Prince
- 3.6 **"Day Labour"** shall mean a project where the Corporation acts as General Contractor and receives requests for quotes, usually in units of 'per hour' or 'per tones' from a minimum of two companies qualified to supply individual components for the project
- 3.7 **"Department"** shall mean each department and their divisions of The Corporation
- 3.8 **"Department Head"** shall mean anyone who has responsibility for an annual budget
- 3.9 **"Direct Acquisition"** shall mean those purchases less than \$2,500.00 made by department heads without direct Council approval, **EDIT, SET RANGE UP TO 2500.00**
- 3.10 **"Emergency"** shall mean a situation where serious delay may affect the life and health of the general public, prevention of serious damage, and the restoring of essential service levels to a minimum level
- 3.11 **"Expanded Works"** shall mean approved construction projects in which an unexpected problem arises during construction, which does not expand the

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scope of the project but is necessary in order to deliver the original approved work. Any expanded works that are above 15% of the original project costs must be reviewed by Council

- 3.12 **“Expressions of Interest”** shall mean a call by The Corporation to suppliers to express interest for the provision of alternate options, which cannot be fully defined or specified at the time of the request and shall include development proposals
- 3.13 **“Forms”** shall mean the standard documents as provided as part of the purchasing guidelines for purchasing and contract administration purposes
- 3.14 **“Goods and Services”** shall mean supplies, materials or equipment and related procurement services. This may include installation, training, inspection, maintenance and repairs and related procurement services, but does not include land purchases, sales and property
- 3.15 **“Invitational Tender”** shall mean a formal request for details on the supply of goods and services, greater than \$5,000.00 and less than \$20,000.00. Two or more written tenders must be obtained where possible and opened in public
- 3.16 **“Public Tender”** shall mean a publicly advertised solicitation of bids opened in public. A public tender must be called for goods and services at a value of \$20,000.00 or greater and may be used for values less than \$20,000.00 when deemed appropriate by the pertinent authority
- 3.17 **“Pertinent Authority”** shall mean Council unless otherwise designated to another person or body
- 3.18 **“Request for Quotation”** shall mean request for prices on specific goods and services less than \$5,000.00, greater than \$2,500.00. Quotes may be received verbally and recorded in detail by the department head. Accepted quotes shall then be confirmed in writing by the supplier prior to work beginning. **EDIT TO SET RANGE GREATER THAN 2500.00**
- 3.19 **“Single Source”** shall mean that there may be more than one source in the open market but for reasons of function or service only one vendor of those available is recommended for consideration of the particular goods and services
- 3.20 **“Sole Source”** shall mean there is only one known source or supply for a particular goods and service in the immediate area
- 3.21 **“Time Sensitive Work”** shall mean works for which the timing to initiate and/or complete the works is paramount, but the time available to follow normal procedures is insufficient

PART 4. Policy Statement

- 4.1 All purchases with the exception of ‘direct acquisition’ shall be approved by council.
- 4.2 All purchases of goods and services for The Corporation shall be subject to the provisions of this by-law. Prices and authority levels as stated in this by-law are intended to be before tax amounts.
- 4.3 In the event a department chooses to engage a consultant to coordinate the procurement of goods and services, then it shall be the responsibility of the pertinent authority to ensure that all conditions of the by-law are adhered to.
- 4.4 All bidders who will be performing work on municipal property must provide evidence of liability insurance in the amount of \$1,000,000.00 and active Workplace Safety and Insurance Board status to be eligible for specified works.
NOTE: Notwithstanding clause 4.4 for all road construction projects, tender documents shall include a clause which requires all bidders to supply evidence of liability insurance in the amount of \$5,000,000.00.
- 4.5 Formal approval of the annual budget constitutes financial approval to proceed with the purchase subject to any scheduling or priority consideration as may be deemed necessary by Council and as outlined by the purchasing policies.

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- 4.6 Prior to the passing of the annual operating budget each department shall be allowed an interim budget appropriation of fifty percent (50%) of the previous year's approved operating budget, and such interim appropriation shall be deemed to be for routine operating and recurring expenditures or statutory purposes unless otherwise directed by Council.
- 4.7 Subject to any direction that may be given, the pertinent authority shall decide the method of source selection which shall be employed to obtain the most favourable price, having regard to the nature or importance of the contemplated work, the urgency of the requirement, and general trade practice and market conditions.
- 4.8 The pertinent authority is authorized to place orders on behalf of departments for good and services from such suppliers and upon such terms and conditions as deemed appropriate. In the awarding of a contract, the pertinent authority shall not be bound to accept the lowest or any bid and may award to another bidder if, in his/her discretion, having regard for delivery time, service and quality of goods, that it would be in the best interest of The Corporation.
- 4.9 When identical low bids are received, the pertinent authority may determine the low bidder on the basis of a coin toss, conducted in the presence of the tied bidders.
- 4.10 The Council of The Corporation provides for moneys up to the amount of \$10,000.00 for emergency expenditures relating to a situation (s) that constitutes a danger of major proportions to life or property; and based upon implementation of The Corporation's Emergency Plan and associated with an Official Declaration of an emergency by The Corporation.
- 4.11 Where Council chooses an option for renewal, Council may exercise such options provided that;
- i. The supplier's performance in supplying the goods, services or construction is considered to have met the requirements of the contract, and
 - ii. Council agrees that the exercise of the option is in the best interest of the municipality, and
 - iii. Funds are available in appropriate accounts within the municipality's approved budget estimates, including authorized revisions to meet the proposed expenditure
 - iv. Council shall state in the resolution to extend and continue the contract the reason for doing so

PART 5. Purchasing Procedures

- 5.1 The **'direct acquisition'** process shall be those purchased made by Clerk/Treasurer without direct council approval of less than \$2,500.00, recorded verbal quotes/estimates and/or written quotes/estimates shall be kept on file for council review.
- 5.2 The **'invitation tender'** process may be followed when the following conditions have been satisfied: Schedule 'C'
- i. Where the goods and services are estimated to cost more than \$5,000.00 and less than \$25,000.00.
 - ii. When the qualified tender (s) have been received
 - iii. The provisions of Part 4.7 of this by-law shall apply
- 5.3 The request for **'quotation'** process may be followed when the following conditions have been satisfied: Schedule 'C'
- i. Where the goods and services are estimated to cost less than \$5,000.00
 - ii. When the qualified tender (s) have been received
 - iii. The provisions of Part 4.7 of this by-law shall apply
- 5.4 The **'public tender'** process must be followed when the following conditions have been satisfied: Schedule 'C'
- i. Where the goods and services are estimated to cost more than \$25,000.00
 - ii. When there are two or more vendors which can supply the goods and services
 - iii. When the qualified tender (s) have been received
 - iv. The provisions of Part 4.7 of this by-law shall apply

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- 5.5 Cooperative Purchasing: Schedule 'C':**
- i. The Corporation may participate with the other government agencies or public authorities in cooperative purchasing where it is in the best interest of The Corporation to do so and where the purchasing, goals and objectives and spirit of this by-law are complied with by such government agencies or bodies conducting the Cooperative purchasing.
 - ii. The policies of the government agencies or public authorities calling the cooperative bid are to be the accepted policy for that particular purchase (s).
- 5.6 For 'single or sole source', the provisions of Part 4.7 of this by-law shall apply. Schedule 'C'**
- 5.7 The 'Day Labour' process may be followed when the following conditions have been satisfied: Schedule 'C':**
- i. A construction process where The Corporation's senior managers are qualified to act, or a qualified person is hired to act as the general contractor for the project.
 - ii. When at least two (2) quotes where practical for the various components of the project have been received. Quotes may be verbal and must be recorded with detail and shall be confirmed in writing upon acceptance of quote.
 - iii. When Council believes there will be an advantage to The Corporation through cost savings.
 - iv. When Council declares by resolution that Day Labour is their preferred method of purchasing goods and services.
 - v. The provisions of Part 4.7 of this by-law shall apply
- 5.8 The 'Exceptions' to the requirement to quote and or tender are as follows but not limited to:**
- i. Common daily expenses in the operation of a municipality
 - ii. Payroll and related expenses
 - iii. Board and Committee Levies
 - iv. Vehicle licenses
 - v. Council Honoraria
 - vi. Courier and shipping charges
 - vii. Licenses, certificates and other require approvals
 - viii. Petty Cash vouchers
 - ix. Subscriptions and memberships
 - x. Training and education
 - xi. Refundable Council and employee expenses
 - xii. Ongoing office maintenance and equipment
 - xiii. Professional skills, including Audit services, Insurance services, Legal services, banking services, policing services and reciprocal or shared services...etc.
 - xiv. Engineering consultant services

PART 6. Tender Bid

6.1 Tender Bid Process - The following bidding procedures shall apply to the purchase of goods and services, by 'public tender'.

- i. For all tenders, the pertinent authority shall ensure and confirm completeness of documentation, advertisement arrangements, closing dates and tender opening schedule and vendor contacts for information.

6.2 Establishment of File - A file shall be created and maintained for all tenders and include but not be limited to the following:

- ii. The tender name and number
- iii. A copy of the 'Tenders Received' list
- iv. A photocopy of the bid security deposit
- v. A copy of the liability insurance documentation and WSIB status
- vi. A copy of the newspaper ad and invoice

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- vii. A copy of the tender documents including any plans, specifications and addendum amendments.
- viii. Attendance, an analysis of the bids opened and a copy of the committee's recommendation to Council.
- ix. A Certified copy of the resolution of Council showing the acceptance of the bid.
- x. A copy of the letter notifying all bidders of the award and any other correspondence to the bidders.

6.3 Advertising – Public tenders shall be publicly advertised in a newspaper of local circulation or on the Construction Association website where applicable and placed on the Municipal website for a minimum of two consecutive weeks.

6.4 Release of Information to Bidders – Upon the request of a prospective bidder, the buyer or designate shall The Corporation shall supply the following material for each contract:

- i. A copy of the official Tender Bid Form
- ii. Submission material, e.g. specifications, plans, profiles, etc.

6.5 Changes to Tenders Under Call

A. Preparation and delivery notification of Addenda

- i. Addendums – Interpretations should be made in reply to queries from bidders only, in the form of a written addendum.
- ii. When it becomes necessary to revise, delete, substitute or add to specifications for a tender call, the pertinent authority shall coordinate the issuance of an addendum or cancel the Tender call.
- iii. A copy of each addendum shall be forwarded to each bidder who obtained bid forms for the contract.
- iv. A copy of the addendum notice shall also be stapled to each bid form not yet distributed.
- v. In the case of bidders who have already submitted a tender bid, they will be informed and given a chance to adjust their tender where time permits.

B. Notification to Bidders of Cancellation of Tender Call

Each prospective bidder, who received bid documents, shall be notified, by the pertinent authority, of the cancellation of the tender call at anytime up to the awarding of the contract.

C. Return of Tender Bids

When a tender call is cancelled, no bids will be accepted. Any tender bids inadvertently received shall be returned, unopened, to the bidder by hand, directly or by registered mail.

D. Extension of Time

Each bidder who received documents shall be notified of the extension of time.

E. Disposition of Tender Bids

When the closing date has been extended, bids already received shall be handled as follows:

- i. If the extension of time is four (4) weeks or less, the bidder shall be advised that the bid will be returned unopened upon request
- ii. If the extension of time is more than four (4) weeks, all bids shall be returned unopened. For this purpose, all communication shall be by registered mail, or in person with signed acknowledgement or mail receipts as part of the file.

6.6 Tender Bid Requirements

- i. All tender bids shall be mailed, or hand delivered to The Corporation
- ii. The correct tender bid forms, as supplied by The Corporation must be used and in the possession of the pertinent authority on or before the closing date and time.

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- iii. The tender bid must be legible, written in ink or typed, with unit price for each item and other entries clearly shown, unless the bid form specifically permits otherwise.
- iv. The tender bid must not be restricted by a statement added to the tender bid form or a covering letter or must not have alternations to the tender bid forms, unless requested by The Corporation.
- v. Adjustments, by telephone, facsimile or letter, for a bid already received, will not be considered. A bidder desiring to make adjustments to a bid must withdraw the tender bid and/or supersede it with a later bid offer
- vi. The tender bid must be signed and initialed in the space (s) provided on the form, with the signature of the bidder, or of an official of the company bidding. In the case of an incorporated company, the corporate seal must be affixed on the bid form.
- vii. At the discretion of Council, tender bids must be accompanied by a certified cheque, bank draft, money order and/or bid bond made payable in the amount up to a maximum of ten percent (10%) of the total bid price to The Corporation.
- viii. Contracts may specify conditions under which the contract may be terminated by either Council or the bidder

6.7 Receiving Tender Bids

- i. When a tender bid is received, the envelope shall have the time and date recorded on the outside and initialed by the pertinent authority.
- ii. If a time stamp is not available, the time received shall be noted in ink and initialed by the pertinent authority.
- iii. Receipt for each bid shall be recorded.
- iv. Submissions shall be deposited 'unopened' in an appropriate and secure location.

6.8 Late Tenders

- i. Regardless of the time a tender bid is received, the envelope shall have the time and date recorded.
- ii. If a tender bid is for a contract already closed, it shall be returned unopened to the bidder. If a tender bid is to be returned by mail, it shall be accompanied by a covering letter.
- iii. If a late tender bid is received without a return address on the envelope, it shall be opened, the address obtained and then returned. The covering letter should state why the envelope could not be returned unopened.

6.9 Withdrawal of Tender Bid

- i. A bidder may request that the tender bid be withdrawn prior to the opening of the contract to which it applies.
- ii. Withdrawal requests must be directed to the pertinent authority by letter, facsimile or in person. Telephone requests shall not be considered.
- iii. Withdrawal requests received after the opening of the tenders will not be allowed.

6.10 Opening of Tenders Procedure

- i. All tender bids received shall be opened at the same public meeting
- ii. The pertinent authority shall announce the number of bids received for each tender, the name of the bidder and the total bid amount.
- iii. The name of each bidder and the bid amount shall be recorded on a summary 'Tender Log. Attached to this by-law as Schedule 'A'.
- iv. The tenders shall be checked to determine that all requirements of this by-law have been met. If the requirements have not been met, the tender may be rejected.

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6.11 Award Procedure

- i. The awarding of tenders must be approved by Council and confirmed by resolution.
- ii. Upon the award of the tender bid, the pertinent authority shall inform the successful bidder that the bid has been accepted.
- iii. The pertinent authority shall inform all other bidders of the award and the name of the successful bidder.
- iv. Following the award of the tender bid, all deposit cheques and/or bid bonds, other than the successful bid (s), shall be returned to the applicable bidders by regular mail.

6.12 Right to Accept or Reject Tenders

- i. The Corporation reserves the right to accept or reject any tender, including the lowest tender. In the case of there being only one valid tender, The Corporation may accept or reject that tender.
- ii. Awards shall typically be made to the lowest bidder who has complied with the terms and conditions of the Tender, all other factors being equal. In addition to price, consideration of factors as set out below may result in the acceptance of a bid other than the lowest bid:
 - a. Ability and experience to perform in accordance with the Terms of the Tender
 - b. Record of past performance with Council
 - c. Past performance with other municipalities or boards
 - d. Financial or technical resources
 - e. Knowledge of the municipal operations, systems and services
 - f. Compatibility with other goods and services of the municipality
 - g. Percentage of local content, including supplies, materials and sub-contractors from within the municipal boundaries
 - h. Any other factors, including a scoring system which may be used by Council in evaluating bids received
 - i. All bid requests shall include the privilege clause "The lowest or any bid may not necessarily be accepted". When using such privilege clause, the specific reasons for not accepting the bid shall be disclosed to all bidders
 - j. Where bids are received in response to a bid solicitation but exceed the project estimates, the Clerk, with the authority of Council, may enter into negotiations with the Lowest Responsive Bidder to attempt to achieve an acceptable bid within the project estimate.

6.13 Contract Completion

- i. Upon the satisfactory completion of the contract, the pertinent authority shall return the deposit cheque or bid bond
- ii. Upon the satisfactory completion of the contract and authorization of the pertinent authority, payment shall be made for the good and services as per the agreed payment schedule if applicable

6.14 Bid Irregularities (Schedule 'B')

The process for administering irregularities contained in Bids pertaining to all Contracts shall be set out in Schedule 'B' attached. For an irregularity listed in the first column of Schedule 'B' the applicable response is set out opposite in the second column of Schedule 'B'.

PART 7. Severability

Should any section, subsection, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof, other than the part so declared to be invalid.



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PART 8. Repeal

Any and all previously approved Procurement by-laws or policies are hereby rescinded in their entirety.

PART 9. Effective Date

This By-Law shall come into force and take effect upon its adoption by Resolution.

Read a first time on this 10th day of December 2019.

Read a second and final time and adopted this 10 day of December 2019.

Mayor

SEAL

Clerk



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Schedule 'A'

TENDER LOG

PROJECT NAME:				
TENDER DEADLINE:				
NAME OF BIDDER	ENVELOPE No.	DATE RECEIVED	TIME RECEIVED	TENDER AMOUNT ***

***** TO BE COMPLETED ONLY AFTER TENDERS ARE OPENED IN ACCORDANCE WITH THIS TENDER DOCUMENT**



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Schedule 'B'

Irregularity in Tender Bids

DESCRIPTION OF IRREGULARITY	MAJOR	MINOR	ACTION TO BE TAKEN
Late bid (by any amount of time)	X		Automatic rejection
Bids completed in pencil	X		Automatic rejection
Bid surety not submitted with the bid when the bid request (or any addenda) indicated that such surety is required. Where not requested in original documents, but still required Bid surety must be provided within 24hrs of acceptance of Bid.	X		Automatic rejection
Execution of Agreement to Bond: a) bond company corporate seal or equivalent proof of authority to bind company or signature missing b) surety company not licensed to do business in Ontario	X		Automatic rejection
Execution of Bid Bonds: a) corporate seal or equivalent proof of authority to bind company or signature of the Bidder or both missing b) corporate seal or equivalent proof of authority to bind company or signature of Bonding Company missing	X		Automatic rejection
Other Bid Security: Cheque has not been certified	X		Automatic rejection
Bidders not attending mandatory meetings	X		Automatic rejection
Unsealed tender envelopes	X		Automatic rejection
Pricing or signature pages missing	X		Automatic rejection
Insufficient financial security	X		Automatic rejection
Bid received on documents other than those provided in request	X		Automatic rejection
Execution of bid documents – proof of authority to bind corporation missing	X		Automatic rejection
Part bids (all items not bid)	X or	X	Acceptable unless complete bid has been specified in the request
Bid contains minor clerical errors		X	2 working days to correct errors and initial changes. Township reserves right to wave initialing and accept bid.
Other mathematical errors which are not consistent with the unit prices		X	2 working days to correct errors and initial changes. Unit prices to prevail



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DESCRIPTION OF IRREGULARITY	MAJOR	MINOR	ACTION TO BE TAKEN
Pages requiring completion of information by vendor missing	X		Automatic rejection
3Bid documents which suggest that the bidder has made a major mistake			Consultation with solicitor on a case by case basis
NOTE: The above list of irregularities should not be considered all-inclusive. The Clerk in consultation with Council will review minor irregularities not listed. The Clerk may then accept the bid or request that the bidder rectify the deviation.			



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Schedule 'C'

Purchasing Methods

PROCEDURE	COST OF GOODS OR SERVICE
Direct Acquisition	0\$ to \$2,500.00 (Section 5.1)
Request for Quotation	\$2500.01 to \$5,000.00 (Section 5.3)
Invitation Tender, or Public Tender	\$5,000.01 to \$25,000.00 (Section 5.2)
Public Tender	\$25,000.01 or more (Section 5.4)
Cooperative Purchasing	When in the best interest of The Corporation and when the purposes, goals and objectives of this by-law are complied with (Section 5.5)
Single or Sole Source	When there is only one known source or supply of a particular goods or service (Section 5.6)
Day Labour	The Corporation qualified to act as general contractor and when quotes are received for component of the project. (Section 5.7)