THE CORPORATION OF THE TOWN OF SMITHS FALLS

BY-LAW NO. 10644-2025

BY-LAW TO ADOPT A PROCUREMENT POLICY FOR THE CORPORATION OF THE TOWN OF SMITHS FALLS

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WHEREAS section 270(1)(3) of the Municipal Act 2001, S.O. 2001, c. 25, as amended (the "Act"), requires all municipalities to adopt and maintain a policy with respect to the procurement of Goods and Services; and

WHEREAS The Corporation of the Town of Smiths Falls (the "Town") is committed to ensuring its procurement decisions are fair, open, transparent and non-discriminatory; and

WHEREAS effective planning, monitoring and control of procurement is essential for maintaining public trust and confidence; and

WHEREAS purchases made by the Town should reflect best value for the Town, protect the Town's financial interests and encourage competitive bidding;

NOW THEREFORE BE IT RESOLVED the Council of The Corporation of the Town of Smiths Falls enacts as follows:

1. THAT the Town of Smiths Falls Procurement Policy attached as "Schedule A" forming part of this by-law is hereby adopted.

2. THAT the provisions of this by-law shall come into force and take effect upon the passing thereof.

Read a first and second time this 6th day of October 2025

Read a third time and passed this 6th day of October 2025

Mayor

Clerk

Town of Smiths Falls – Procurement Policy

APPLICATION

This By-Law applies to all purchases of goods and services by the Town. All expenditures, procurements and commitments shall be made in accordance with this By-Law.

PURPOSE

The purpose of this By-Law is to provide guidance to individuals engaged in procurement activities on behalf of the Town and to ensure consistency and integrity in all procurement activities.

It is the objective of the Town that all goods and services be acquired on a fair and transparent basis, in a manner that is efficient, accountable and promotes value, as follows:

a) Efficiency: to promote effective use of funds allocated by Council through procurement methods and decisions that achieve best value for money;
b) Transparency and Accountability: to maintain trust and confidence of the public in dealing with public funds through objective, fair, transparent and efficient procurement processes; and
c) Fair: to promote procurement processes and decisions that are in compliance with applicable legislation and are consistent with the strategic objectives established for the Town.

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1. DEFINITIONS

Words and phrases used in this By-Law have the following meanings, unless expressly stated otherwise:

(a) "**Approval Authority**" means the authority to approve the gating points in a procurement as more particularly set out in this By-Law and include the authority to approve procurements, award Contracts, sign Contracts, pay invoices, and any changes to such procurements or Contracts.

(b) "**Bid**" means a proposal, tender or other form of supplier submission to the Town in response to a RFx.

(c) "**Buying Group**" means a cooperative arrangement in which individual members administer the procurement function for specific Goods or Services for the group and includes a buying group entity where the entity administers procurement for its members. Standing arrangements established by municipal, provincial, territorial and federal governments that are open to municipalities, such as the Ontario Vendor of Record Arrangement, are deemed to be Buying Group contracts under this By-Law.

(d) "**Competitive Procurement**" means the procurement of a Good or Service through a competitive process.

(e) "**Contract Value**" means the estimated total expenditures under a Contract over the entire period of the Contract, including options and renewal periods, exclusive of taxes and rebates.

(f) "**Emergency**" means a requirement for Goods or Services brought on by events unforeseeable by the Town where there is no time to conduct an Open Competitive Process. An Emergency could include:

i. An imminent or actual danger to the life, health, or safety of any person;

ii. An imminent or actual danger of injury to or destruction of real or personal property;

iii. An imminent or actual unexpected interruption of an essential service;

iv. An emergency as defined by the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9; and

v. An imminent or actual spill of a pollutant as contemplated by Part X (Spills) of the Environmental Protection Act.

(g) "**Non-Competitive Procurement**" means the procurement of a Good or Service directly from a supplier without a competitive process. Also referred to a sole-source or single-source procurements.

(h) "**Prequalified Supplier List**" means a list of suppliers that have satisfied the requirements of a Prequalification Process and are prequalified to participate in future procurements covered by the list.

(i) "**Procurement Strategy**" means the planned approach to a procurement, including whether a request for prequalification, request for quotations, request for tenders or request for proposals will be used.

(j) "**Public Competitive Process**" means a competitive process where the Town publicly advertises an invitation to suppliers to submit a Bid on the Town's designated tendering website.

(k) "**RFx**" means a document inviting suppliers to submit Bids with a view to being awarded a Contract for the purchase of Goods or Services or to submit information with a view to informing a future procurement. RFx documents include, but are not limited to requests for expression of interest, requests for information, requests for pre-qualification, requests for proposal, requests for quotation, and requests for tender.

2. ROLES AND RESPONSIBILITIES

2.1. General Responsibilities

(a) Any person authorized to purchase goods and services on behalf of the Town shall comply with this By-Law and related procedures.

2.2. Council

(a) The Council's role in procurement is, generally, to establish the By-Law, set the budget, approve modifications to the budget, and approve recommendations to award Contracts in exceptional circumstances.

(b) The Council has the ultimate authority for this By-Law including the authority to approve exceptions and amendments to this By-Law.

2.3. Chief Administrative Officer

(a) The CAO is accountable to Council for the proper administration of, and staff compliance with, this By-Law and related procedures.

(b) Subject to the requirements of this By-Law, the CAO may exercise or override the authorities delegated to a subordinate under this By-Law, as deemed appropriate.

2.4. Treasurer

(a) The Treasurer is assigned administrative responsibility for the procurement function. The Treasurer is responsible for developing and maintaining procurement and contracting procedures that comply with the requirements of this By-Law and for approving the procurement and contracting templates to be used by the Town, including changes or alternatives to the templates. The Treasurer shall assist Town staff, as appropriate, in the interpretation, administration and compliance with this By-Law and related procedures.

(b) The Treasurer is responsible for monitoring and recording expenditures against approved budgets, and approving payments, as set out in this By-Law.

(c) The Treasurer will assist Department Heads, as appropriate, in the interpretation of this By-Law and related procedures.

2.5. Department Head

(a) Department Heads are authorized to procure goods and services on behalf of the Town subject to the requirements of this By-Law.

(b) Department Heads are accountable for, and shall oversee, all procurement and contracting activities within their department to ensure compliance with this By-Law and other Town policies and related procedures.

(c) Department Heads may delegate their authority to procure goods and services on behalf of the Town to staff within their department, subject to any restrictions imposed by the CAO. Department Heads remain responsible even when authority is delegated.

2.6. Amendments to Position Titles

Where a title to a position used in this By-Law no longer exists or is modified, the authorities assigned to the position may be exercised by a person deemed to have the responsibilities of the original position until such time as an amendment to this By-Law reflecting the applicable change in title is approved by Council.

2.7. General Prohibitions

All persons undertaking procurements on behalf of the Town shall not:

(a) circumvent the requirements of this By-Law including, but not limited to dividing purchases to avoid the requirements of the By-Law by any method;

(b) provide information to one supplier to give that supplier an advantage over other suppliers;

(c) biasing specifications or experience, or scheduling events to prevent suppliers from meeting requirements of an RFx; or

(d) purchase any goods and services through Contracts for personal use by or on behalf of any member of Council, employees of the Town or their immediate families.

Any person who fails to act in accordance with the provisions of the By-Law may be subject to appropriate sanctions or disciplinary action up to and including, for employees, termination of employment.

3. APPROVAL AUTHORITIES

3.1. Expenditure Approval (Approval 1)

(a) The CAO and each Department Head is delegated the authority to expend Town funds ("**Expenditure Authority**") in accordance with the Council approved budget, subject to additional procurement and contracting approvals required by this By-Law.

(b) Expenditure Authority may also be exercised as follows:

i. An Emergency, in which case the Department Head is authorized to expend Town funds and must report such purchase to the CAO and Council as soon as possible; or

ii. Payment of invoices in connection with goods or services required to maintain the Town's day-to-day operations between budget approval cycles, including the payment of accounts or previously approved capital items and projects.

3.2. Procurement Strategy Approval (Approval 2)

(a) The approval authorities to determine the method of procurement of Goods or Services("**Procurement Strategy Authority")** are set out in Table 3.2. Considerations to determine the procurement strategy is set out in section 4 of this By-law.

(b) For procurements with a Contract Value under $10,000, the Department Head may delegate authority to staff within their department to purchase the required directly from such suppliers and upon such terms and conditions as the Department Head deems appropriate. Where practical, informal quotes shall be obtained from a minimum of two suppliers to ensure the Town is obtaining best value.

(c) The following approvals of the procurement strategy and RFx document utilized are required before initiating a procurement:

Table 3.2	
Contract Value	**Approval of Procurement Strategy and RFx Document**
Competitive Procurements	
$130,000 and under	Department Head
$130,001 and over	Department Head and Treasurer, jointly

Non-Competitive Procurements	
Less than $10,000	Department Head
$10,000 - $50,000	CAO, in consultation with Dept. Head, in accordance with exclusion in ScheduleA
$50,001 and over	Council, subject to receipt of written justification and joint recommendation of CAO and Department Head

3.3. Contract Award Approval (Approval 3)

(a) The authority to award a contract to a supplier ("**Contract Award Authority**") is as follows:

i) For procurements with a Contract Value under $10,000, the Department Head has Contract Award Authority.

ii) Competitive Procurements - Subject to Section 3.3(b), the CAO has the Contract Award Authority to award a contract resulting from a Competitive Procurement.

iii) Non-Competitive Procurements - Subject to Section 3.3(b), the Contract Award Authorities set out in Table 3.3 apply to Non-Competitive Procurements:

Table 3.3	
Non-Competitive Procurements	
Up to $10,000	Department Head
$10,000 - $50,000	CAO
$50,001 and over	Council, in consultation with CAO

(b) Regardless of the Contract Value, Council approvals are required where:

i. the approved funding is insufficient for the Contract Value;
ii. in the case of competitive procurement, staff does not recommend awarding the contract to the highest ranking Bidder based on the evaluation and ranking method set out in the RFx;
iii. Council approval is mandated by statute; or
iv. where a substantive objection emanating from the Bid solicitation has been filed with the Town.

(c) Contracts and Contract amendments requiring signature on behalf of the Town must be signed by the Town's authorized signatories.

3.4. Invoice Payment Approval (Approval 4)

(a) All invoices shall be reviewed and verified for conformance with the Contract and clerical accuracy by the applicable Department Head prior to submitting to the Treasurer for payment. By approving an invoice, the Department Head is confirming the goods or services have been received and conform with the requirements of the Contract or, in the case of advanced payments, the payment is being made as contemplated by the Contract.

(b) Prior to releasing payment, the Treasurer shall review invoices for accuracy and Expenditure Authority or specific resolution approval.

3.5. Contract Extension, Amendment and Termination Approval

(a) Extension of Contract

A Contract may be extended if the following conditions are met: (i) the Department Head has confirmed the funds are available in the Budget; (ii) the Contract includes an option to extend the term; and (iii) CAO and Treasurer have been consulted.

A Contract that does not include an option to extend may only be extended if a Non-Competitive Procurement is permitted and authorized in accordance with this By-Law and the extension is approved by the applicable Approval Authority for Non-Competitive Procurements set in sub-section 3.3.

(b) Amendments to Add Goods or Services to a Contract

The CAO is authorized to amend Contracts to add Goods or Services without a further competitive process provided the following conditions are met: (i) the Department Head has confirmed the funds are available in the budget; and (ii) the Contract either includes an option to add the class of goods or services or the addition of goods or services is deemed by both the Department Head and the CAO, to be necessary for the completion of the original project.

Where these conditions are not met, the Contract may only be amended to add Goods or Services if a Non-Competitive Procurement is permitted and authorized in accordance with this By-Law and the amendment is approved by the applicable Approval Authority for Non-Competitive Procurements set out in sub-section 3.3.

(c) Approval to Terminate Contracts

Contracts may only be terminated prior to the Contract expiration date with the Treasurer's approval.

3.6. Exercise of Approval Authority

(a) A person delegated authority pursuant to this By-Law may sub-delegate their authority. A sub-delegated authority may not be further sub-delegated. All delegations shall be made in writing and signed by the person designated in this By-Law and forwarded to the Treasurer. The person delegated an authority pursuant to this By-Law remains accountable for a sub-delegate's compliance with this By-Law and related procedures.

(b) The Procurement and Contracting Approval Authority is based on the Contract Value. If, after a procurement process is completed and actual prices are known, it is determined that the Contract Value is elevated into a higher level of Approval Authority, then the higher level Approval Authority shall be the Approval Authority for subsequent approvals and signatures.

(c) Regardless of the Approval Authority delegated pursuant to this By-Law, the CAO and Council have ultimate Approval Authority and may approve or sign documents in place of lower-level staff, or override the decisions made by lower-level Approval Authorities, as deemed appropriate.

(d) Regardless of the Approval Authority delegated pursuant to this By-Law, the CAO may at any time, as deemed appropriate, receive Council approval prior to releasing a procurement document or to award a Contract. Circumstances where Council approval may be sought include: (i) if there is an irregularity in the procurement; (ii) the award of a Contract, the value of the bid or the aggregate cost of the project is in excess of the budget; (iii) there is a legislative requirement for Council approval; or (iv) other circumstances the CAO deems appropriate.

4. PROCUREMENT AND CONTRACTING

4.1. Competitive Process by Default

A competitive process shall be used to procure goods or services with a Contract Value of $10,000 or more unless a Non-Competitive Procurement is permitted in accordance with this By-Law or the goods or services is listed as an exclusion in <u>Schedule A</u> – Exclusions.

4.2. Competitive Procurement Strategies

Table 4.2 sets out the competitive procurement strategies and contracting vehicles used for procuring goods or services, subject to exceptions as may be provided for in this By-Law or the procedures:

Table 4.2		
Contract Value	**Competitive Procurement Strategy**	**Contracting Vehicle**
$0 up to $10,000	N/A	no formal contract required written confirmation required
$10,000 up to $50,000	Invitational Competitive Process - Informal <u>Optional</u> Invitational Competitive Process Formal Public Competitive	Town Contract
$50,001 up to- $130,000	Invitational Competitive Process - Formal <u>Optional</u> Public Competitive Process	Town Contract, unless otherwise approved by CAO
$130,001 and over	Public Competitive Process	Town Contract, unless otherwise approved by CAO

(a) **$10,000 up to $50,000: Invitational Competitive Process - Informal**

An informal invitational competitive process consists of soliciting quotes informally and obtaining either a verbal (with e-mail follow-up) or written quote from more than one supplier, without advertising. Quotes should be requested from a minimum of three (3) suppliers whenever possible. Department Heads must justify requesting quotes from less than three (3) suppliers.

(b) **$50,000 up to $130,000: Invitational Competitive Process - Formal**

A formal invitational competitive process involves the issuing of a RFx to a minimum of three (3) selected suppliers, where practicable, without advertisement. Department Heads must be prepared to justify requesting quotes from less than three (3) suppliers.

(c) **Over $130,000: Public Competitive Process**

For procurements over $130,000, the Department Head shall conduct a Public Competitive Process by advertising the RFx on the Town's designated tendering website.

Where the Town has implemented standard templates, such templates shall be used in all procurement and contracting activities. The use of other forms of solicitation documents, agreements or templates is only permitted where approved in advance by the Treasurer.

4.3. Standing Arrangements

(a) Where the Town anticipates it will have a recurring need for specific goods or services but is unable to commit to specific quantities in advance, Department Heads may establish Standing Arrangements with one or more Contractors. To establish a Standing Arrangement, a Public Competitive Process shall be conducted.

(b) The Standing Arrangement shall include all terms applicable to subsequent procurements, including the cost of the goods or services and delivery requirements. If Standing Arrangements are established with multiple Contractors for the same goods or services, clear ranking methods and call-up procedures shall be specified.

(c) The Treasurer may establish blanket Contracts for Standing Arrangements and Department Heads may issue individual orders against the blanket Contract for amounts not exceeding $50,000 without requiring additional procurement approvals. Individual purchases over $50,000 against the blanket Contract shall be approved by the Treasurer.

4.4. Prequalified Supplier Lists

(a) Department Heads may establish lists of prequalified suppliers for the purposes of future purchases of specific goods or services by conducting a publicly advertised Prequalification Process to create a Prequalified Supplier List.

(b) Unless the Prequalified Supplier List remains open to new suppliers, it will be refreshed every 3 years.

4.5. Unsolicited Proposals

(a) The Town may, from time to time, be approached by proactive suppliers seeking to engage the Town in a procurement or contract. For example, a proactive supplier may offer to allow the Town to test, or pilot, a goods or services, or suggest that the Town consider an innovative approach, or solution to an existing Town problem.

(b) Town staff may engage in discussions with potential suppliers on opportunities that exist in the market as part of informing themselves of market changes and opportunities. Before engaging in any such discussions, however, the supplier shall always be advised that any procurement or contract can only be initiated pursuant to the Town's policies.

(c) If an unsolicited proposal (document) is received from any potential supplier, the unsolicited proposal should be forwarded to the appropriate Department Head. The Department Head shall first assess such proposals on the basis of whether they align with the Town's strategic goals and objectives, do not circumvent the Town's regular procurement processes, and the proposal's scale and scope align with the requirements and funding ability of the Town.

(d) If it is determined that there is a legitimate need for the goods or services offered by way of an unsolicited proposal, then the procurement process shall be conducted in accordance with the By-Law.

4.6. Cooperative Purchasing (Buying Groups)

(a) The Town may join one or more Buying Groups or purchase from a Buying Group contract with the Treasurer's approval.

(b) Once the Treasurer has approved the Town's participation in a Buying Group, a Department Head may enlist the Town in the Buying Group contract or participate in a procurement process administered by the Buying Group without undergoing a separate competitive procurement process however approvals to award the Contract based on Contract Value, shall still be obtained prior to committing the Town to purchase any Goods or Services.

4.7. Non-Competitive Procurement

(a) In the following circumstances the Town may use a Non-Competitive Procurement to procure goods or services:

i) Contract Value under $10,000. If the Contract Value is under $10,000 and the Department Head determines it is not in the Town's best interest to seek competitive quotes.

ii) No Compliant Bids Received. If a competitive process was conducted and (i) no Bids were submitted; (ii) no suppliers satisfied the conditions for participation; (iii) no submitted Bids met the essential requirements of the RFx; or (iv) the submitted Bids were collusive. In these circumstances, the Non-Competitive Procurement shall be based on substantially the same requirements and specifications that were set out in the RFx.

iii) Only One Supplier. If the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons: (a) the requirement is for a work of art; (b) the protection of patents, copyrights, or other exclusive rights; (c) due to an absence of competition for technical reasons; (d) the supply of goods or services is controlled by a supplier that is a statutory monopoly; (e) to ensure compatibility with existing goods, or to maintain specialized goods that shall be maintained by the manufacturer of those goods or its representative; (f) work is 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; (g) work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor or the lessor's designated trades; or (h) the procurement is for subscriptions to newspapers, magazines, or other periodicals.

iv) Additional Deliveries. For additional deliveries by the original supplier of goods or services that were not included in the initial procurement, if a change of supplier for such additional goods or services: (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and (ii) would cause significant inconvenience or substantial duplication of costs for the Town.

v) Commodity Market Goods. For goods purchased on a commodity market such as electricity, postal services, water, fuel, natural gas, and furnace oil.

vi) Prototype and Pilot Projects. If the procurement is for a prototype or a first goods or services that is developed in the course of, and for, a particular contract for research, experiment, study, or original development. Original development of a first goods or services may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the goods or services is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs.

vii) Exceptionally Advantageous Conditions – Unusual Disposals. For purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers.

viii) Winner of Design Contest. If a Contract is awarded to a winner of a design contest provided that: (i) the contest has been publicly advertised and organized in a fair and transparent manner; and (ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner.

ix) Confidential or Privileged Goods or Services. If goods or services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through a competitive process could reasonably be expected to compromise government confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.

x) Emergency. If strictly necessary, and for reasons of urgency brought about by events unforeseeable by the Town, the goods or services could not be obtained in time using an open competitive process.

(a) All Non-Competitive Procurements shall be justified in writing based on one of the above exemptions and approved in accordance with Section 3.2.

4.8. Contract Award Notice

(a) Where a Contract is awarded with a Contract Value above $130,000, whether through a Public Competitive Process or a Non-Competitive Procurement, the Town shall publish a contract award notice on the Town's designated tendering website no later than seventy-two (72) days after the contract award.

(b) The Town may elect not to publish the award of contract where the Non-Competitive Procurement is conducted for reasons of confidential or privileged goods or services.

4.9. Bidder Debriefing

The Town shall, on request by an unsuccessful Bidder, provide a debriefing during which the Bidder will be provided the reasons why the Town did not select their Bid.

4.10. Contract Management

The Department Head is responsible for ensuring the proper management of Contracts awarded by their department and to ensure goods or services are provided and paid for in accordance with the terms of the Contract.

4.11. Record Retention

The Department Head is responsible for ensuring that all documentation relating to a procurement and any resulting contract is properly filed in accordance with the Town's record retention procedures. Documentation and reports regarding procurement processes and contract awards shall be preserved in accordance with the Town's retention schedules.

4.12. Annual Procurement Review

Every year the Treasurer, with the assistance of the Department Heads shall perform an analysis of the previous year's paid invoices and suppliers and upcoming procurements with a view to identifying opportunities to consolidate the procurement of goods and/or services between departments under a single contract to achieve savings for the Town to obtain benefits including, but not limited to, volume discounting and administrative efficiencies. The analysis shall also include standing arrangements and cooperative purchases. This report, which shall contain the results of the analysis, next steps and anticipated benefits for the Town, shall be presented to the CAO.

5. INFORMATION REPORTS TO COUNCIL

<u>Quarterly Report on Procurements</u>. For information purposes, the Treasurer shall submit a monthly report to Council on all Contract awards, contract extensions and contract amendments, resulting in a Contract Value of $130,000 or higher that were undertaken since the previous report.

6. ETHICAL CONDUCT

6.1. Employees and other Persons Involved in Procurement

(a) The Town will conduct its procurement activities with integrity so as to maintain the public's trust. All staff, and any person assisting with Town procurement, shall:

i. promptly declare any apparent, potential or actual conflict of interest arising in the context of their activities to their immediate supervisor or the Treasurer;
ii. maintain open and honest dealings with everyone who is involved in the procurement process, including suppliers, other staff and the public and avoid activities that would compromise the best interest of the Town;
iii. undertake all purchasing activities without positive or negative bias and make fair and impartial award recommendations for all Contracts;
iv. not accept any gifts, favours or loans in return for business or the consideration of business;
v. not publicly endorse one company in order to give that company an advantage over others;
vi. strive to obtain the maximum benefit for funds spent by the Town; and
vii. protect confidential supplier information that is submitted in connection with a procurement process or Contract.

(b) No Council member, staff or any person undertaking procurement activities on behalf of the Town will have any interest, directly or indirectly, as a contracting party, partner, shareholder, surety, or otherwise, in any contract for goods or services or in any portion of the profits thereof, or of any supplies to be used therein, or in any of the monies to be derived there from, unless the extent of the interest of such individual has been fully disclosed to the Treasurer and has been subsequently approved by the CAO.

(c) Any person involved in procuring goods or services for the Town shall promptly declare any direct or indirect pecuniary or personal interest in a procurement or potential Contract to their Department Head, the Treasurer, or the CAO. Where it is determined that a conflict of interest exists and that the conflict cannot be managed, such person shall be excluded from involvement with the procurement.

(d) Employees and others shall not purchase any goods or services through Town Contracts either on behalf of themselves or on behalf of any member of Council, employees of the Town or their immediate families for their personal use.

6.2. Council Members

(a) Without limiting Council's authority as the Town's governing body, to preserve the integrity of the procurement process, individual members of Council shall remain at arm's length from staff and suppliers in the procurement process and refrain from either intervening or interfering in the procurement process, the evaluation of Bids, selection of suppliers, or staff recommendations.

(b) Individual members of Council should not receive or review any information or documents related to a particular procurement during the procurement process.

7. SUSPENSION OF SUPPLIERS' ELIGIBILITY TO PARTICIPATE

The CAO may exclude a supplier or refuse to accept a Bid from a supplier on grounds such as:

(a) a violation of the Town's policies and procedures, the Town's code of conduct and any relevant professional standards;
(b) bankruptcy or insolvency;
(c) being engaged, either directly or indirectly through another corporation, in a dispute or legal action with the Town;
(d) evidence that the supplier's commercial integrity is impaired;
(e) the Town's interests are likely to be negatively impacted by the supplier's participation in the procurement process; or
(f) poor performance of a supplier in relation to a previous procurement or related contract.

Reference to supplier in this section shall also include an officer, director, shareholder, partner, employee or any other person representing the supplier.

8. PROMOTING SOCIAL BENEFITS THROUGH PROCUREMENT

(a) When preparing specifications for goods or services, Department Heads shall ensure the environmental impacts of the goods or services are considered and, as appropriate, shall afford a preference to environmental responsibility and sustainability goods and services. Council may adopt a climate lens to guide decisions in this regard.

(b) When preparing specifications for goods or services, Department Heads shall ensure the requirements of the Ontarians with Disabilities Act, 2001 and the Accessibility for Ontarians with Disabilities Act, 2005 are reflected.

9. BY-LAW REVIEWS AND AMENDMENTS

All changes to this By-Law require the approval of Council except for changes of an administrative nature, such as a clerical error or the change in title of a position. A formal review of the By-Law shall be undertaken by the CAO in consultation with the Treasurer and Department Heads not less than once every five (5) years.

The review is to take into consideration current and future professional practices, industry standards, market conditions, Federal/Provincial Government directions and policies, and technological developments and advancements.

The review findings are to be reported to Council for consideration.

SCHEDULE A – EXCLUSIONS

Contracts for goods and services and payment of the expenses listed below are excluded from the competitive procurement requirements and public notices required by this By-Law. If a contract is deemed to be excluded, the By-Law shall not be construed to cover the acquisition of goods or services through that contract.

(1) General Exclusions

(a) goods or services financed primarily from donations that require the procurement to be conducted in a manner inconsistent with this By-Law.

(b) Procurements by the Town on behalf of an entity not covered by this By-Law.

(c) Procurements under a commercial agreement between the Town which operates sporting or convention facilities and an entity not covered by this By-Law that contains provisions inconsistent with this By-Law.

(d) Acquisition of goods or services for the purpose of commercial sale or re-sale by the Town.

(e) Procurement of goods or services from philanthropic institutions, non-profit organizations, or natural persons with disabilities.

(f) Procurement of goods or services for the specific purpose of providing international assistance, including development aid, provided that the procuring entity does not discriminate on the basis of origin or location within Canada of goods, services, or supplier.

(2) Excluded Professional Services

(a) Health or social services.

(b) Services that may, under applicable law, only be provided by licensed lawyers or notaries.

(c) Services of expert witnesses or factual witnesses used in court or legal proceedings.

(d) Financial services respecting the management of government financial assets and liabilities (i.e., treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution.

(3) Non-Procurement Transactions

(a) Employment contracts.

(b) Non-legally binding agreements.

(c) Insurance premiums and related deductibles.

(d) Payments of debts.

(e) Procurement or acquisition of fiscal agency or depository services (banking services).

(f) Any form of financial assistance, such as grants, loans, equity infusions, guarantees, and fiscal incentives.

(g) Agreements between enterprises that are controlled by or affiliated with the same enterprise, or between one government body or enterprise and another government body or enterprise.

(h) Acquisition or rental of land, real property payments including land, buildings, leasehold interests, easements, encroachments and licenses, or the like. The landlord's or seller's provision of related services, such as the fit up of premises will also be excluded.

(i) Management of third-party claims against the Town, negotiation of legal settlements and grievance settlements.

(j) Binding orders, judgments or decisions of an arbitrator, tribunal, or court. Given that these payments are mandatory, approval from the Department Head which is funding the payment is required.

(k) Travel expenses.

(l) Other Town and employee related expenses, such as: memberships in professional organizations (professional dues), staff attendance at seminars, testing or examination fees, workshops, courses, training, trade shows or conferences, magazines, periodicals or subscriptions.

SCHEDULE B - SUPPLIER CODE OF CONDUCT AND ETHICS

A. INTRODUCTION

The following describes the minimum standards of business conduct the Town expects from every supplier, including their owners, employees, agents, partners and subcontractors who provide Goods or Services to the Town.

B. STANDARDS OF CONDUCT

Honesty and Integrity

Suppliers shall treat all persons honestly and fairly and at all times act responsibly and diligently in the performance of their duties.

Workplace Well-Being

The Town is committed to protecting the health and safety of all employees and others working with the Town against illness, injury and incidents of violence and harassment. Consistent with the Town's commitment, suppliers shall ensure, provide and maintain a safe and healthy work environment that is free from incidents of violence and harassment.

Conflicts of Interest and Unfair Advantage

Suppliers are required to promptly disclose any potential, actual or apparent conflict of interest or unfair advantage (as defined below) when dealing with the Town. Where the unfair advantage or conflict can not be sufficiently mitigated or avoided, the Town may suspend a supplier from participating in a procurement process or terminate the contract.

An **unfair advantage** is any situation where, in relation to a procurement process, a supplier has or may have, an unfair advantage in the process. An unfair advantage includes working with a current or previous Town employee or consultant with relevant inside knowledge, being in possession of or having access to information that is confidential to the Town that is: (a) relevant to the preparation of its bid; and (b) not available to other bidders.

A **conflict of interest**, in relation to the performance of its contractual obligations with the Town is where a supplier's other commitments, relationships or financial interests could, could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

Gifts and Entertainment

No supplier or potential supplier shall offer gifts, favours, inducements of any kind to staff or Council members, or otherwise attempt to influence or interfere with staff and Council members' duties and responsibilities concerning the procurement or management of the procurement process.

Anti-Bribery and Corruption

Suppliers shall never offer, ask for, give or receive any form of bribe, kickback any other type of improper payment, or attempt to gain influence or competitive advantage through improper means.

Suppliers shall ensure that the requirements of all applicable anti-corruption laws are met, including, but not limited to, the *Corruption of Foreign Public Officials Act, SC 1998, c 34*. No payments, gifts or other benefits may be given, directly or indirectly, to public officials, political parties or political candidates for the purpose of influencing government decisions in the Town or the supplier's favour or securing any other improper advantage. Suppliers are expected to ensure that payments made to agents or other third parties are not used, in whole or in part, to influence government decisions or secure any other improper advantage. Suppliers shall not engage in any form of corruption, extortion and/or embezzlement.

Collusion and Bid Rigging

By submitting a Bid, a supplier is certifying to the Town that: (a) the prices in their Bid have been arrived at independently from those of any other bidders; (b) the prices in their Bid have not been knowingly disclosed by the supplier, and will not knowingly be disclosed by the supplier prior to award, directly or indirectly to any other supplier or competitor; and (c) no attempt has been made, nor will be made, to induce any other person to submit, or not to submit a Bid, for the purpose of restricting competition.

A violation of this provision may violate the *Competition Act, RSC, 1985, c.C-34*; and if there is a violation, it may result in the imposition of serious fines and possibly imprisonment.

Public Statements

Suppliers shall not publish, issue or make any statements or news release, electronic or otherwise, concerning a Town procurement process or contract without the express prior consent of the Town. For certainty, suppliers shall not make any public statements concerning theirs or any other Bid, the evaluation of the Bid, or the award of the Contract or cancellation of a procurement process or in relation to activities under any Contract.

Lobbying

Bidders shall not engage in any form of political or other lobbying whatsoever with respect to a procurement process or any contract, or otherwise attempt to influence the outcome of a procurement process directly or indirectly by any manner whatsoever other than by submitting a Bid.

C. CONSEQUENCES

Breaches of this Supplier Code of Conduct and Ethics are taken seriously. A failure to comply with this document may result in suspension from bidding on Town contracts or termination of a contract, in whole or in part and may include removal of the supplier from the Town's prequalified supplier list. This Supplier Code of Conduct and Ethics is not to be read in lieu of but in addition to the supplier's obligations as set out in any contracts between the Town and the supplier. In the event of a conflict between this Supplier Code of Conduct and Ethics and a contract, the terms of the contract shall govern.

APPENDIX A – BUY CANADIAN

Insert future Buy Canadian Strategy once approved by Council.