

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

BY-LAW NO. 18-14

BEING a bylaw to establish a policy for the procurement of goods and services for the Municipality of Mississippi Mills.

WHEREAS in accordance with Section 270 (1) of the *Municipal Act, 2001* municipalities shall adopt policies with respect to the procurement of goods and services;

WHEREAS in accordance with Sections 5 and 6 of the *Integrated Accessibility Standards* (Ontario Regulation 191/11) municipalities as designated public sector organizations must incorporate accessibility criteria and features into procurement practices when procuring or acquiring goods, services or facilities, including self-service kiosks;

AND WHEREAS this By-Law establishes the authority and sets out the methods by which goods and services will be purchased or disposed of for the purposes of the Municipality of Mississippi Mills subject to certain exceptions set out therein;

NOW THEREFORE the Council of the Corporation of the Municipality of Mississippi Mills enacts as follows:

1. THAT the procurement policy attached as "Schedule A" forming part of this by-law is hereby adopted.
2. THAT this by-law shall take effect on the date of its passing.
3. THAT by-law 12-79 is hereby repealed.

BY-LAW READ, passed, signed and sealed in open Council this 30th day of January, 2018.

Shaun McLaughlin, Mayor

Shawna Stone, Clerk

Schedule A TO By-Law 18-14

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

PROCUREMENT POLICY

Date: January 30, 2018

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SECTION I DEFINITIONS

In this Policy,

1. **Accessible Criteria and Features**
means universal accessible standards or specifications as defined by regulation or as determined by Council.
2. **Acquisition/Purchase/Procurement**
means the process used for obtaining goods and services.
3. **Agreement**
means a legal document that binds the Municipality of Mississippi Mills and all other parties, subject to the provisions of the contract including terms of reference, terms of payment, respective responsibilities, etc.
4. **Annual Aggregate Value**
means the total amount anticipated to be spent annually by all departments on a particular type of good or service.
5. **Approval**
means authorization to proceed with the purchase or disposal of goods and/or services.
6. **Bid**
means an offer or submission received in response to a request for quotation, tender or proposal which is subject to acceptance or rejection.
7. **Bid Irregularity**
means a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response (see Schedule B).
8. **Bid Request**
means a written request for bids or a solicitation, which may be in the form of a Request for Quotation, Request for Tender or Request for Proposal.
9. **Blanket Order (Supply Contract)**
means a Purchase Order which establishes prices or a method for determining prices, terms and conditions and the period of time during which a vendor agrees to provide goods and services to the purchaser upon the purchaser's demand.
10. **Chief Administrative Officer (CAO)**
means the Chief Administrative Officer for the Municipality of Mississippi Mills.
11. **Clerk**
means the Municipal Clerk for the Municipality of Mississippi Mills.
12. **Contract**
means a legally binding agreement between two or more parties. Such

agreements will consist in the form of a formal agreement between two or more parties that creates an obligation to provide defined goods and/or perform defined services.

13. Conflict of Interest

refers to a situation in which private interests or personal considerations may affect an employee's judgment in acting in the best interest of the Municipality of Mississippi Mills. It includes using an employee's position, confidential information or corporate time, material, or facilities for private gain or advancement or the expectation of private gain or advancement. A conflict may occur when an interest benefits any member of the employee's family or business associates.

14. Corporate Signing Officer

means the Head of Council, and Municipal Clerk or other individuals designated by Council or this policy.

15. Cost Effective Bid

means a bid received in response to a request that offers the best value for the dollars expended taking into consideration a quantitative and qualitative selections procedure.

16. Council

means the Council for the Municipality of Mississippi Mills.

17. Co-op

means a Co-operative acquisition venture.

18. Department Head

means the person responsible for direction and operational control of a Department or authorized designate.

19. Designated Signing Authorization

provides the authority for members of staff to execute legally binding contracts, on behalf of the Municipality of Mississippi Mills. Thresholds governing signing authorizations are as follows:

- a. Purchase Requisitions - Treasurer or CAO
- b. Agreements/Contracts - CAO or Mayor and Clerk

20. Direct Appointment

means to directly appoint a consultant on the basis of defined selection criteria, including but not limited to qualifications and experience.

21. Disposal

means the removal of materials owned by the municipality, which are deemed surplus, by sale, trade-in, auction, alternative use, or destruction.

22. Emergency

means a situation or threat or an impending situation which may affect the environment, life, safety, health and/or welfare of the general public, or the

property of the residents of the municipality requiring the purchase of goods and services immediately to prevent or correct dangerous or potentially dangerous safety conditions, further damage, to restore minimum service or ensure the safety of the public.

23. **Execute**
means to legally bind the Municipality of Mississippi Mills to the terms and conditions defined within the Agreement.
24. **Expression of Interest**
means a situation where vendors are solicited by the Municipality to advise the Municipality of their ability or desire to undertake municipal requirements.
25. **Goods and/or Services**
includes supplies, equipment, property insurance, maintenance, professional and consulting services and service contracts not otherwise provided for.
26. **Invitational Bidding Process**
means select bidders are invited to provide a bid submission in response to a procurement document.
27. **List of Bidders**
means a list, retained by the respective departments of those vendors who are interested in submitting bids.
28. **Lowest Responsive Bid**
means the lowest bid price submitted which meets the requirements and specifications as set out in the bid request, minor deviations excepted.
29. **Material Safety Data Sheets (MSDS)**
means Material Safety Data Sheets which must be submitted by the vendor for all hazardous materials, including an index of chemical compounds with details of properties, handling details, precautions and first-aid procedures.
30. **Municipality**
means the Municipality of Mississippi Mills.
31. **Negotiation**
means the action or process of conferring with one or more vendors leading to an agreement on the acquisition of the required goods and services under the conditions outlined in this Policy.
32. **Open Market Procedure**
means obtaining price quotations from vendors verbally or in writing.
33. **Privilege Clause**
means the standard clause used in bid documents and advertising that reads in part “the lowest or any tender may not necessarily be accepted”.

34. **Procure/Procurement/Purchase**
means to acquire by purchase, rental or lease of goods and/service.
35. **Professional and Consulting Services**
includes architects, auditors, engineers, designers, planners, surveyors, management and financial consultants, brokers, legal services, and any other professional and consulting services rendered on behalf of the municipality.
36. **Proposal (Request for Proposal /RFP)**
means an offer to provide goods or services to the Municipality, where it is not practical to prepare precise specifications, or where “alternatives” to detailed specifications will be considered, which may be subject to further negotiation. This process allows vendors to propose solutions to arrive at the end product, and allows for evaluation on criteria other than price.
37. **Purchase Order**
means a written offer to purchase goods and services or a written acceptance of an offer where such offer has been made on forms prescribed by the Municipality.
38. **Purchase Requisition**
means a request for goods and/or services initiated by the user, for which budget approval has been granted and sent to the CAO or Treasurer for action.
39. **Quotation (Request for Quotation/RFQ)**
means an offer to sell goods and services to the Municipality or an offer to purchase surplus goods from the Municipality without the requirement for a sealed bid
40. **Real Property**
means land or buildings and any interest, estate or right of easement affecting same.
41. **Responsive and Responsible Vendor**
means one who complies with the provisions of the bid solicitation, including specifications, contractual terms and conditions, and who can reasonably be expected to provide satisfactory performance on the proposed contract based on reputation, or references, or performance on previous contracts, and adequate financial and other resources.
42. **Self Service Kiosk**
means a computer terminal featuring specialized hardware and software designed for use by the public that provides access to information and applications for communication, commerce, entertainment and education.
43. **Single Source**
means there is more than one source in the open market but only for reasons of function or service one vendor is recommended for consideration of the particular goods and/or services.

43. Standing Offer

Means an offer from a supplier that allows the Municipality to purchase frequently ordered goods and services from suppliers at prearranged prices, under set terms and conditions, when and if these are requested but no commitment exists until the Municipality places an order against the standing offer.

44. Surety

means a specified dollar amount in the form of cash, certified cheque, bid bond, performance bond, labour and materials bond, letter of credit or any other form as deemed necessary and stated in any quotation, tender or proposal documents issued by the Municipality.

45. Tender

means an offer received from a supplier of goods and/or services in response to a public advertisement requesting tenders sealed in an envelope.

46. Treasurer

means the Treasurer for the Municipality of Mississippi Mills.

47. Verbal Quotation

means the requisitioning department will receive pricing via telephone or in person, and will retain written documentation of the conversation and document the information on the requisition.

**SECTION II
PROCUREMENT PRINCIPLES and GOALS**

The purchasing principles of the Municipality of Mississippi Mills are as follows:

1. to obtain the best value in the procurement of goods and services while treating all suppliers equitably.
2. to procure by purchase, rental or lease the required quality and quantity of goods and/or services, including professional and consulting services in an efficient, timely and cost effective manner while maintaining the controls necessary for a public agency in accordance with the Procurement Policy;
3. to encourage open competitive bidding for the acquisition and disposal of goods and services from the most responsive and responsible vendors;
4. to use vendors who comply with the provisions of the bid documents including specifications and contractual terms and conditions;
5. to use vendors who can be expected to provide satisfactory performance based on reputation, references, past experience and sufficiency of financial and other resources;
6. to consider all costs, including, but not limited to, acquisition, operating, training, maintenance, quality, warranty, payment terms, disposal value and disposal

- costs, in evaluating bid submissions from qualified, responsive and responsible vendors;
7. to give full consideration to the annual aggregate value or to consider the total project cost of specific goods and services that will be required by each department and by the Municipality as a whole prior to determining the appropriate acquisition method;
 8. to incorporate accessibility criteria and features when procuring or acquiring goods, services or facilities including self service kiosks, except where it is not practical to do so, to achieve the objectives of dignity, equal opportunity, independence and integration;
 9. to co-ordinate purchases on a municipal-wide basis when appropriate in order to obtain available volume discounts and best possible price;
 10. to monitor and report on the economic climate and legislative changes which may have an impact on the Municipality of Mississippi Mills and to determine the appropriate actions to be taken through purchasing policies and procedures;
 11. to encourage the procurement of goods and services made by methods resulting in the least damage to the environment and supply goods incorporating recycled materials or “environmentally friendly” materials where practicable;
 12. to avoid real and perceived conflicts between the interests of the Municipality and those of its employees and elected officials and to ensure compliance with the *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M.5, as amended;
 13. to adhere to the Municipality’s codes of conduct for municipal employees and Council and the Statement of Ethics for Procurement in Schedule F of the Procurement Policy.
 14. to review this policy every 3 years or earlier, to evaluate its effectiveness.

SECTION III GENERAL CONDITIONS

1. Where a Department Head is authorized or has delegated authority to undertake any act pursuant to this Policy, such act may be undertaken by the Department Head’s authorized designate.
2. Any commitments being made where it is recommended that a contract be executed by the Head of Council and the Clerk must first be approved by Council.
3. No expenditure or commitment shall be incurred or made and no account shall be paid by the municipality for goods and services, except as approved by Council or as otherwise authorized in accordance with this policy, or any applicable Municipal policy or by-law, any specific provisions of the *Municipal Act, 2001*, and all other relevant Federal and Provincial legislation, as may be in

effect from time to time.

4. References must be obtained for all procurement where no past experience with the municipality exists.
5. The CAO or Treasurer in consultation with the Department Head of the requisitioning department may remove a vendor's name from the list of bidders for a period of up to five years on the basis of documented poor performance, non-performance, submitting misinformation or fraudulent documentation to the Municipality or misrepresenting the quality of goods or services being provided, engaging in fraudulent activity, engaging in harassing or threatening or unlawful behaviour or for a conflict of interest. A written notice of the decision will be provided to the vendor by the CAO or Treasurer.
6. Material Safety Data Sheets must be maintained on file by the user department for all relevant products whether acquired through tendering, quoting or the proposal process.
7. When using the privilege clause which reads in part "the lowest or any tender may not necessarily be accepted", the specific reasons must be stated why the bids may not be accepted.
8. The CAO or Treasurer will assist in developing evaluation criteria and submission analysis for all procurement needs.
9. Prior to awarding any procurement of goods and/or services, the user department will forward recommendations to the CAO or Treasurer for final review and comments.
10. No employee shall purchase or offer to purchase, on behalf of the Municipality, any goods and services, except in accordance with this Policy.
11. Individual Elected Officials shall not approve nor acquire any goods and services on behalf of the Municipality.
12. Any employee who intentionally and knowingly acquires or disposes of any goods and services for the Municipality in contravention of any section of this Policy, as amended from time to time, shall be subject to disciplinary actions in accordance with Municipal policies.
13. All petty cash purchases must exclude tendered goods and services.
14. No requirement for goods and services may be divided into two or more parts to avoid the provisions of this policy.
15. A Department Head shall not award a contract where the CAO or Treasurer has determined that the provisions of this policy have not been adhered to and has so advised the Department Head.

16. The CAO or Treasurer shall, in conjunction with the Department Head, reject all purchase requisitions for services where the services could result in the establishment of an employee-employer relationship.
17. That Schedules A-F (attached hereto) may be amended provided such amendments have been approved by the Council and the amended Schedule(s) has been circulated to affected staff.

SECTION IV SUPPLIER/VENDOR ELIGIBILITY

1. Without limiting or restricting any other right or privilege of the municipality and regardless of whether or not a bid otherwise satisfies the requirements of a bid document, the municipality may reject any bid from a vendor where within the preceding five years a supplier/vendor has been involved in any, but not limited to, the following:
 - Litigation with the municipality;
 - Act(s) or omission(s) resulting in a claim by the municipality under any security submitted by the vendor on a Request for Proposal or a tender, including but not limited to a bid bond, a performance bond, or warranty bond;
 - Failure to make payments owing the municipality after a demand for same has been made;
 - Refusal to enter into a contract with the municipality after a bid has been accepted;
 - The vendor`s refusal to follow reasonable directions of the municipality or to correct a default under any contract with the municipality and when required by the municipality;
 - Documented poor performance;
 - Unlawful or unreasonable behaviour such as, but not limited to, threats, harassment, intimidation, communication or interference with any other bidder intending to submit a bid or interference with the performance of any contract awarded by the municipality to the successful bidder;
 - The vendor having discussed or communicated, directly or indirectly, with any other vendor or their agent or representative about the preparation of the vendor`s bid including, but not limited to, any connection, comparison of figures or arrangements with, or knowledge, of any other vendor making a bid for the same work except in the instance of a Joint Venture where one is permitted;
 - Unlawful or unreasonable behaviour such as, but not limited to, threats, harassment, intimidation, assault or battery, or interference with an official, employee, representative, agent or independent consultant or contractor or the municipality in the performance of his or her duties or any attempts to influence such persons;
 - Fraudulent or negligent billing practices;
 - Misrepresentation of goods/services being supplied;
 - Submission of false or misleading information or alteration of municipally issued bidding documents;
 - Acted in conflict with the municipality`s interests;

- Involvement in criminal activity or activity that contravenes municipal by-laws or Provincial/Federal laws;
2. A vendor and its representatives shall not:
- Publicly comment, respond to questions in a public forum or carry out activities to publicly promote or advertise their qualifications, their service or product or their interest in a bid document;
 - Communicate with municipal employees outside of the point of contact included in the bid document;
 - Communicate or contact either directly or indirectly any of the following persons with respect to a bid document: any member of the evaluation team, any member of the costing team, any expert, independent consultant or advisor assisting the municipality, any elected official, any employee of the municipality or any other person connected in any way with the bid document until such time when the bid process is cancelled or awarded.

SECTION V

REQUIREMENT FOR APPROVED FUNDS

1. Net Departmental expenditures are authorized by Council each year as part of either the Operating or Capital Budget process. Pending Council's approval of proposed budgetary estimates, Department Heads are authorized to spend up to 1/3 of the previous year's approved Operating Budget. Department heads are not authorized to overrun net departmental operating budgets, except in accordance with this Policy.
2. The exercise of authority to award a contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Council approved budget.
3. Where goods and services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a contract is subject to:
 - a. the identification and availability of sufficient funds in appropriate accounts for the current year within Council approved estimates, and
 - b. the requirement for the goods or services will continue to exist in subsequent years and, in the opinion of the Treasurer, the required funding can reasonably be expected to be made available

The CAO or Treasurer may reject all purchase requests for which sufficient funds are not available and identified. If the Department Head advises the CAO or Treasurer that the deficiency is minimal and alternative funding has been identified, the purchase request may proceed provided appropriate authorizations are met in accordance with this policy.

The Department Head will co-ordinate, with the CAO or Treasurer, all leasing requirements including term capitalization rate, lease vs. buy (or other) analysis, etc. The CAO or Treasurer will ensure that all lease commitments comply with Municipal Act 2001 as amended and regulations made thereunder.

4. Where this policy prescribes financial limits on contracts that may be awarded under the authority of a Department Head, or provides for financial limits on

contracts required to be reported to Council, for the purpose of determining whether a contract falls within these prescribed limits, the contract amount shall be the sum of:

- a. all costs to be paid to the supplier under the contract, excluding HST
- b. less any rebates

SECTION VI SPECIFICATIONS

1. The Department Head whose budget provides for the procurement of goods and services shall be responsible, in consultation with the CAO for the preparation and approval of all specifications and/or Terms of Reference (Scope of Work) to be used for the procurement of such goods and services.
2. Where practical, specifications or Terms of Reference should be considered that are detailed but not brand specific to leave room for potential vendors to provide alternatives in the event an equal or better-proven product or method is available.
3. Where practical, accessibility criteria and features should be considered when procuring goods and services. If not practical, a documented explanation should be provided to the CAO.
4. Vendors or potential vendors should not be requested to expend time, money or effort on design or in developing specifications or otherwise help define a requirement beyond the normal level of service expected from vendors.

When such services are required:

- a. the CAO or Treasurer shall be advised
- b. the contracted vendor will be considered as a consultant and paid for their services and will continue to be able to make an offer for the supply of the goods and services. The consultant shall be advised that the provision of assistance with specifications does not guarantee award of contract.
- c. the detailed specification shall become the property of the municipality for use in obtaining competitive bids

SECTION VII STANDARDIZATION

It will be the policy of the Municipality of Mississippi Mills wherever possible, to standardize the procurement of goods and services to allow for:

1. reduced number of goods and services required
2. increased volume on common items or services
3. maximizing volume buying opportunities
4. providing economies of scale
5. reduced handling, training and storage costs
6. minimizing maintenance costs
7. co-operative purchasing activities
8. competitive bid results
9. reduced overall cost

10. increased use of environmentally friendly products

SECTION VIII RESPONSIBILITIES AND AUTHORITIES

1. The Department Head has responsibility for procurement activities within their departments and are accountable for determining and achieving specific objectives as outlined for each procurement project.
2. Department Heads have the authority to award contracts in the circumstances specified in this policy provided that the delegated power is exercised within the limits prescribed in this policy and the delegated authority by-law, and the requirements of this policy are met.
3. The CAO or Treasurer is responsible for:
 - a. providing procurement advice and services to Department Heads,
 - b. monitoring compliance with this policy.
4. Department Heads, in consultation with Treasury staff, shall inform Council if non-compliance with this policy has occurred.
5. The CAO or Treasurer has the authority to instruct the Department Head not to award a contract and may direct staff to submit recommendations to Council for approval and may provide additional restrictions concerning procurement where such action is considered necessary and in the best interests of the Municipality.
6. The Municipal Clerk or Department Head is required to forward to the CAO or Treasurer, a copy of all legally executed contracts relating to the procurement of optional goods and services.

SECTION IX METHODS OF PROCUREMENT

Notwithstanding any other provisions of this Policy, the acquisition of the items listed in Schedule A do not fall under the guidelines of the Purchasing Policy and shall be subject to applicable Policies and Procedures established from time to time. Procurement by means of a lease agreement is also addressed separately in Schedule E.

1. PROCUREMENT OF GOODS AND/OR SERVICES

Where it is estimated that the value of the goods and services, inclusive of all delivery charges will cost:

- a. **\$0 to \$2,500**
Direct acquisition is acceptable.
- b. **2,501 to \$10,000**
The user department shall obtain 3 written quotations where possible and practicable
No report to Council is necessary.

c. **\$10,001 to \$25,000**

The initiating Department Head, in consultation with the CAO or Treasurer, shall issue a Request for Quotation. A minimum of three quotations (where possible) are to be received before the municipality commits to a Vendor.

If only one quotation is received, the municipality may exercise its right to cancel the call for quotations. Quotations are not formally opened in public nor is it necessary to disclose prices or terms at the time of submission.

Reporting requirements per delegated authority by-law

d. **\$25,000 and over**

The initiating Department Head, in consultation with the CAO or Treasurer, shall issue a Tender for all approved projects based on defined requirements (specifications are available to readily compare products).

Tenders require a reply by a designated date and time, signed by a Corporate Officer, authorized to bind the Corporation. Any requested bid deposits, security or bonds must be included with the submission. Replies are delivered directly to the CAO and are opened at a public tender meeting. If only one tender is received, the municipality has the option of not opening the bid and closing the call for tender.

Each sealed bid received in response to a formal bid request is reviewed to determine whether a bid irregularity exists, action is taken according to the nature of the irregularity (see Schedule B).

Reporting requirements are determined by the delegated authority by-law

Upon approval by the delegated authority by-law or municipal by-law, a legally binding agreement is executed by the Mayor and Clerk.

The Department Head is responsible for maintaining current insurance certificates and WSIB certificates, as called for in the bid documents.

**2. REQUESTS FOR PROPOSALS
(INCLUDING THE ENGAGEMENT OF PROFESSIONAL AND CONSULTING SERVICES)**

This method of acquisition can be used for any dollar value and involves the solicitation of proposals when the requirements for goods and/or services cannot be definitively specified, the requirements of the municipality are best described in a general performance specification, and innovative solutions are sought.

Depending on its terms, the process may involve negotiations subsequent to the submission of proposals on any or all of the specifications, contract terms, and prices.

The CAO shall maintain a list of suggested evaluation criteria for assistance in formulating an evaluation scoring scheme using a standard Request for Proposal that includes factors such as but not limited to, qualification and experience, strategy, approach, methodology, scheduling, and past performance, facilities,

equipment and price/fees.

Department Heads shall identify appropriate criteria from the list but are not limited to the standard criteria from the list. Requests for Proposals are not formally opened in public nor is it necessary to disclose prices or terms at the time of submission. If only one proposal is received, the CAO or Treasurer, in consultation with the Department Head, has the option of not opening the bid and closing the call for proposal. (See Schedule C)

Written submissions shall be acquired through the Request for Proposal (RFP) process and evaluated on the basis of quantitative and qualitative criteria identified in the RFP documents.

A report to Council or the CAO per the delegated authority by-law is required from the department issuing the RFP for Council consideration and approval.

Upon approval by the delegated authority by-law or municipal by-law, a legally binding agreement is executed by the Mayor and Clerk.

**3. EXPRESSION OF INTEREST and/or
REQUEST FOR PRE-QUALIFICATION**

Used where bidders offer their interest in submitting a bid on a product or service.

Advertised publicly, and information is requested to determine reference checks, past performance, and financial liability. A reply to the Request for Expression of Interest and/or Pre-Qualification is required by a designated date and time to the respective department.

Submissions are reviewed and subsequently a Request for Quotation or Tender is prepared for a short list to invited pre-qualified bidders.

METHODS OF PROCUREMENT

The following are authorized procedures for the procurement of goods, services, and construction, not available from pre-existing agreements.

METHOD OF PROCUREMENT	TYPE OF QUOTATION	SOURCE OF BIDS	TYPE OF CONTRACT	REPORTING STATUS
1. GOODS AND SERVICES				
a. Under \$2,500	Written documentation required	Purchases made from the competitive marketplace where possible and practicable	Direct acquisition	No report to Council required
b. \$2,501 - 10,000	Written quotation required	3 written quotes to be obtained where possible		A report to the CAO is required
c. \$10,001 – 25,000	Written quotation acquired by REQUEST FOR QUOTATION (RFQ)	Advertised on website and in local paper.		Delegated Authority and report to CAO
d. Over \$25,000	Written quotation acquired by REQUEST FOR TENDER	Advertised on website and in local paper. May advertise in trade paper	Purchase Order or Executed Contract	Delegated Authority & report to CAO to include in an Information report to Council
2. REQUESTS FOR PROPOSALS (INCLUDING THE ENGAGEMENT OF PROFESSIONAL AND CONSULTING SERVICES)				
a. Under \$100,000	Written quotations through REQUEST FOR PROPOSAL	Advertised on website and in local paper. May advertise in trade paper	Agreement	Delegated Authority & report to CAO to include in an Information report to Council
b. Over \$100,000	Written quotations through REQUEST FOR PROPOSAL	Advertised on website and in local paper. May advertise in trade paper	Agreement	Report to Council
3. EXPRESSION OF INTEREST and/or REQUEST FOR PRE-QUALIFICATION				
	Request for information only, followed by	Advertised on website and in local paper. May	No contract. Followed by further request	No report to Council required

	INVITATION TO BID or PREQUALIFIED TENDER.	advertise in trade paper		
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4. EXCEPTIONS TO METHODS OF ACQUISITION

a. VOLATILE MARKET CONDITIONS

Notwithstanding the provisions of this policy, where market conditions are such that long term price protection cannot be obtained for goods and services, the Department Head, CAO or Treasurer will obtain competitive prices for short term commitments until such time as reasonable price protection and firm market pricing is restored.

b. SINGLE SOURCE PROCUREMENT

The requirement for competitive bid solicitation for goods or services may be waived under joint authority of the appropriate Department Head and the CAO or Treasurer under the following circumstances:

- (i) goods and services are in short supply due to abnormal market conditions
- (ii) where competition is precluded due to the application of any Act, or legislation or because of the existence of patent rights, copyrights, technical secrets or controls of raw material
- (iii) the sources of supply are restricted to the extent that there is not effective price competition, or consideration of substitutes is precluded due to any of the following:
 - a. components or replacement parts for which there is no substitute
 - b. compatibility with an existing product, facility or service is required
 - c. specific standards are adopted by Council
 - d. specialty services for which competitors are limited or for which there is no substitute
- (iii) there is documented evidence that the extension or reinstatement of an existing contract would prove most cost effective or beneficial
- (iv) where an existing contract has expired or will expire shortly and unforeseeable circumstances have caused a delay in issuing a new RFP or tender so that a contract extension is required.
- (v) where only one source of supply would be acceptable and cost effective
- (vi) work is required at a location where a contractor has already been secured through a tender process, with established unit prices by another party and it is considered to be beneficial and cost effective to extend the unit prices for the work to be completed for the municipality
- (v) after the RFP process has closed, it may be necessary for discussion to clarify and/or make significant revision(s) to the initially defined requirements of the call for quotations/proposals
- (vi) when only one bid/proposal is received through the procurement process and it is impractical to recall the requirements of the call for quotations/proposals
- (vii) in an emergency situation where there are time constraints
- (viii) where the standing offer process is utilized

The rationale for the selection of single source procurement by a Department Head shall be submitted in writing to the CAO to include in an information report to Council.

c. EMERGENCY PROCUREMENT

Notwithstanding the provisions of this policy, the following shall only apply in case of an emergency, when an event occurs that is determined by a Department Head or the CAO to be:

- a threat to public health
- the maintenance of essential municipal services
- the welfare of persons or of public property or
- the security of the municipality's interests and the occurrence requires the immediate delivery of goods or services and time does not permit for competitive bids

The Department Head, when possible, shall obtain the prior approval of the CAO. The CAO must be informed as soon as possible if prior approval could not be obtained.

An information report shall be submitted to Council for purchases over \$10,000 explaining the actions taken and the reason(s) therefore.

d. CO-OPERATIVE OR JOINT VENTURES

The municipality may participate with other Government agencies or public authorities in co-operative procurement/acquisition ventures or utilize a 'piggy back clause' within public sector contracts, whenever it is determined to be in the best interest of the municipality to do so.

e. UNSOLICITED PROPOSALS

Unsolicited proposals received by the municipality shall be reviewed by the Department Head and CAO or Treasurer. Any procurement activity resulting from the receipt of an unsolicited proposal shall comply with the provisions of this policy. A contract resulting from an unsolicited proposal shall be awarded on a non-competitive basis only when the procurement requirements comply with the non-competitive procurement policies and procedures.

f. PURCHASE OF USED EQUIPMENT

The department head may obtain a price from a known supplier of used goods. As the goods are in a certain condition and specifying the condition(s) would be difficult so as to enable other suppliers to bid or for comparison of bids, 1 price only may be obtained.

Purchases within budget must be approved by the CAO upon receipt of pricing from the supplier. Purchases in excess of the budget must be approved by Council.

g. GOODS OR SERVICES PURCHASED AT A TRADE SHOW

A Department Head may have the opportunity to attend trade shows where on occasion special pricing can be obtained on specific goods or services. The department head shall obtain 1 price from a known supplier of the goods or services in advance of the attendance at the trade show in order to ascertain that the price(s) obtained at the trade show are in fact competitive. The Department Head shall record the price obtained prior to and following attendance at the trade show on the appropriate form.

The Department Head shall have the approval to purchase the goods or services provided it is in accordance with this policy.

h. STANDING OFFER PURCHASES

A request for standing offer purchases may be used where:

- (i) the same goods or services are repetitively used by one or more Departments and the actual demand is not known in advance or
- (ii) the need is anticipated for a range of goods or services for a specific purpose but the actual demand is not known at the outset and delivery is made when a requirement arises

Each department may establish and maintain Standing Offers that define source and price with selected suppliers for all frequently used goods or services. The Department shall employ the provisions contained in the procurement policy for the purchase of goods or services. In a request for a Standing Offer, the expected quantity of the specified goods or services to be purchased over the time of the agreement will be as accurate an estimate as practical and be based, to the extent possible, on previous usage adjusted for any known factors.

I INVITATIONAL BIDDING PROCESS

The requirements for open bidding of goods or services may be waived and an invitational process used upon the Department Head writing a report to Council providing the rationale in support of the request and Council approval being given.

SECTION X BID ANALYSIS

The analysis of bid responses shall be as follows;

1. Tenders shall be tabulated and analyzed by the initiating department staff, and a recommendation forwarded to the CAO or Council for review per this policy or the delegated authority by-law.
2. Bid responses dealing with the lease, rental or purchase of physical assets in excess of \$25,000 shall be tabulated and analyzed by the initiating department staff and a recommendation forwarded to the CAO or Council for review as per the requirements of this policy or the delegated authority by-law.
3. All other bid responses shall be tabulated and analyzed by the Department Head in consultation with the initiating department staff.
4. When two equal bids are received, the names of the tied bidders shall be placed in a container and the bid recommended for award shall be drawn by a Municipal staff member in the presence of the Department Head, the CAO or the Treasurer.
5. When bids are received in response to a bid solicitation but exceed the budget allocation, are not responsive to the requirements or do not represent fair market value, a revised solicitation shall be issued unless an alternative solution is

provided by the Department Head, CAO or Treasurer in a report to Council for approval.

6. When accessibility criteria and features are required as part of the bid response, the review shall include the following:
 - An evaluation of whether accessibility requirements have been met
 - An evaluation of the bidders knowledge and experience related to accessibility
 - A verification of references if requested as part of the bid response, to confirm knowledge and experience related to accessibility.

SECTION XI REPORTING

1. Council approval is required where any or all of the following apply:
 - a. the value of the goods and services is over the approved amounts included in the delegated authority by-law;
 - b. acquisition exceeds the approved budget amount;
 - c. lowest responsive vendor submission is not being recommended;
 - d. there was no provision in the budget for the item;
 - e. CAO requests that a report be presented for Council consideration and approval

Based on the above criteria, a contract shall be executed by the Mayor and Clerk in accordance to the reporting guidelines in this policy.

2. All contracts will be held by the issuing department.

SECTION XII DISPOSAL OF SURPLUS ASSETS (EXCLUDING LAND)

1. Surplus assets shall first be offered to other Departments within the Municipality.
2. Department Heads shall have the authority to sell or dispose of surplus assets (excluding land) through a competitive bidding process advertised on the Municipal website and in the local paper.
3. The sale of surplus assets shall be made to the highest bidder and in accordance with provisions of this policy.

SECTION XIII CONFLICT OF INTEREST

All consultants (eg: architects, engineers, etc.) retained by the municipality shall disclose to the municipality prior to accepting an assignment, any potential conflict of interest. If such a conflict of interest does exist, the municipality as directed by the Department Head may, at its discretion, withhold the assignment from the consultant until the matter is resolved. And furthermore, if during the conduct of a municipal

assignment, a consultant is retained by another client giving rise to a potential conflict of interest, then the consultant shall so inform the municipality.

SECTION XIV SUPPLIER PERFORMANCE

Department Heads shall document evidence and advise the CAO or Treasurer in writing where the performance of a supplier has been unsatisfactory in terms of failure to meet contract specifications, terms and conditions or for health & safety violations or any other concerning issue. The CAO may, in consultation with the Department Head or Municipal Solicitor, prohibit an unsatisfactory supplier from bidding on future contracts. Notice is to be provided to Council.

SECTION XV ACCESS TO INFORMATION

The disclosure of information received relevant to bid solicitations or awards shall be made by the appropriate officers in accordance with the provisions of all relevant privacy legislation including the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O., 1990, CM.56, as amended. All suppliers who contract with the Municipality shall adhere to or exceed the standards set in the *Municipal Freedom of Information and Protection of Privacy Act* or any other relevant Provincial or Federal privacy legislation or common law as may be passed or amended from time to time, as if they were agents of the Municipality as it relates to the confidential and secure treatment, including collection, use, disclosure or retention, of personal information, other confidential information of the Municipality and all records thereof which come into contact with in the course of performing services or providing goods to the Municipality.

SECTION XVI CONTRACT RENEWALS/AMENDMENTS

Where a contract contains an option for renewal, the Department Head may authorize the renewal provided that:

1. The supplier's performance in supplying the goods or services is considered to have met the requirements of the contract;
2. The Department Head agrees that the renewal option is in the best interest of the Municipality, and;
3. Funds are available in appropriate accounts with the approved budget, including authorized amendments, to meet the proposed expenditure.

A written rationale for the renewal shall be submitted to the CAO for approval. The CAO will provide an information report to Council.

No amendments or changes to contracts shall be made by Department Heads unless the total amended value of the contract is within the approval authority of the Department Head. Amendments that change the scope of work or dollar value of a contract shall be approved by Council.

Schedule "A"

GOODS AND SERVICES "EXEMPT" from PROVISIONS OF THE PROCUREMENT POLICIES

1. Petty Cash Items

2. Training and Education

- a) Conferences
- b) Courses
- c) Conventions
- d) Memberships
- e) Seminars
- f) Periodicals
- g) Magazines/Books/DVDs etc.
- h) Staff training
- i) Staff development
- j) Staff workshops
- k) Subscriptions

3. Employee Expenses

- a) Advances
- b) Meal allowances
- c) Travel & Hotel accommodation
- d) Entertainment
- e) Miscellaneous – Non-Travel

4. Employer's General Expenses

- a) Payroll deduction remittances
- b) Licences (vehicles, elevators, radios, etc.)
- c) Debenture payments
- d) Grants/payments to other agencies
- e) Payments of damages
- f) Tax remittances
- g) Charges to/from other Government or Crown Corporations
- h) Employee income
- i) Insurance claims and arbitration awards

5. Professional and Special Services

- a) Committee fees
- b) Witness fees
- c) Court reporters' fees
- d) Honoraria
- e) Arbitrators
- f) Legal settlements

6. Operating Expenses

- a) Postage
- b) Water and sewer charges
- c) Heat/Hydro
- d) Cable television charges
- e) Telephone/communications
- f) Vehicle & Equipment Repairs
- g) Event Supplies/Entertainment Costs
- h) Food and Program Supplies

Schedule "B" **BID IRREGULARITIES**

BID IRREGULARITY

A bid irregularity is a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response.

For the purposes of this policy, bid irregularities are further classified as "major irregularities" or "minor irregularities".

A "**major irregularity**" is a deviation from the bid request that affects the price, quality, quantity or delivery, and is material to the award. If the deviation is permitted, the bidder could gain an unfair advantage over competitors. The issuing Department Head, the CAO or Treasurer must reject any bid, which contains a major irregularity.

A "**minor irregularity**" is a deviation from the bid request, which affects form, rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. If the deviation is permitted or corrected, the bidder would not gain an unfair advantage over competitors. The issuing Department Head, the CAO or Treasurer may permit the bidder to correct a minor irregularity.

MATHEMATICAL ERRORS - RECTIFIED BY STAFF

The issuing Department Head, the CAO or Treasurer will correct errors in mathematical extensions and/or taxes, and the unit prices will govern.

ACTION TAKEN:

The CAO or Treasurer and the issuing Department Head will be responsible for all action taken in dealing with bid irregularities, and acts in accordance with the nature of the irregularity:

- ✓ major irregularity (automatic rejection)
- ✓ minor irregularity (bidder may rectify)
- ✓ mathematical error (additions or extensions) as above

In the event that the vendor withdraws his bid due to the identification of a major irregularity, the municipality may disqualify such vendor from participating in municipal quotations/tenders/requests for proposals for a period of up to one year.

BID IRREGULARITIES - SUMMARY

ITEM	DESCRIPTION	MAJOR	MINOR	ACTION
1.	late bids (by any amount of time)	X		automatic rejection
2.	bids completed in pencil	X		automatic rejection
3.	bid surety not submitted with the bid when the bid request (or any addenda) indicated that such surety is required	X		automatic rejection
4.	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
5.	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
6.	OTHER BID SECURITY: Cheque which has not been certified	X		automatic rejection
7.	bidders not attending mandatory site meeting	X		automatic rejection
8.	unsealed tender envelopes	X		automatic rejection
9.	proper response envelope or label not used		X	acceptable if officially received on time
10.	pricing or signature pages missing	X		automatic rejection
11.	insufficient financial security (i.e.: no deposit or bid bond or insufficient deposit)	X or	X	where security is required & amount is not specified in request, automatic rejection unless insufficiency is <u>deminimus</u> (trivial or insignificant) -where security is required and amount of security is specified in request, automatic rejection
12.	bid received on documents other than those provided in request	X		not acceptable unless specified otherwise in the request
13.	EXECUTION OF BID DOCUMENT proof of authority to bind is missing	X		automatic rejection

14.	part bids (all items not bid)	X or	X	acceptable unless complete bid has been specified in the request
15.	bids containing minor clerical errors		X	2 working days to correct initial errors. Municipality reserves the right to waive initialling and accept bid
16.	uninitialed changes to the request documents which are minor (i.e.; the bidder's address is amended by overwriting but not initialled)		X	2 working days to correct initial errors. Municipality reserves the right to waive initialling and accept bid
17.	alternate items bid in whole or in part		X	available for further consideration unless specified otherwise in request
18.	unit prices in the schedule of prices have been changed but not initialled		X	2 working days to correct initial errors. Municipality reserves the right to waive initialling and accept bid
19.	other mathematical errors which are not consistent with the unit prices		X	2 working days to initial corrections. Unit prices will govern.
20.	pages requiring completion of information by vendor are missing	X		Automatic rejection unless provided within one working day
21.	bid documents which suggest that the bidder has made a major mistake in calculations or bid			consultation with a Solicitor on a case-by-case basis and referenced within the staff report if applicable

NOTES:The above list of irregularities should not be considered all-inclusive. The CAO or Treasurer, in consultation with the requisitioning department will review minor irregularities not listed. The CAO or Treasurer may then accept the bid, or request that the bidder rectify the deviation.
“working days” is from the hour the bidder is notified by Municipal Staff of the irregularity

Schedule "C" **TENDER PROCESS**

Tenders will be called for all work, equipment, and materials with a value exceeding \$25,000 by way of public advertising or invitational bid, as outlined in the Municipal Purchasing Policy.

Prior to issuing the tender, a number will be assigned from the Tender Registry.

The Department Head will advertise and distribute tenders, and book a suitable room for the tender opening:

- ✓ all public tenders are advertised on the Municipal Website and in the local newspaper. Additionally, at the discretion of the Department Head, tenders may be advertised in a regional newspaper, and/or other applicable trade publications (2 days lead time required)
- ✓ In some instances the contract may be advertised to pre-qualify potential bidders. Pre-qualification of bidders includes the screening of potential vendors in which such factors as financial capability, reputation, qualified staff and equipment management and product quality are considered. After evaluation of responses, only those contractors who are "pre-qualified" are allowed to submit tenders

Advertisements must include the following information (if applicable): site meeting time/date/location, contacts names for technical and purchasing inquiries, document fee (if applicable), and location for pick up and drop off of bid documents.

The closing date is usually 14 calendar days after date of issue. However, a tender may be closed in a shorter or longer period of time depending on the urgency or complexity of the item(s) being tendered.

Advertised tender packages are available from the Municipality of Mississippi Mills. The tender fee (if applicable) is paid to Treasury and information is recorded from bidders as documents are picked up. A copy is available for viewing prior to purchase.

All tender submissions must be addressed to the CAO, Municipality of Mississippi Mills. A review will be made of all sealed tender submissions and the submission will be date and time-stamped.

The Municipality will refuse to accept any tender submission that is

- ✓ not sealed
- ✓ received after the closing deadline
- ✓ submitted after a tender has been cancelled.

TENDER PROCESS (continued)

Requests for withdrawal of a tender shall be allowed if the request is made before the closing time for the contract to which it applies. Requests must be directed to the CAO/Clerk by letter or in person, by a Senior Official of the company, with a signed withdrawal confirming the details. Telephone requests will not be considered. The withdrawal of a tender does not disqualify a bidder from submitting another tender on the same contract.

Tenders close at 12:00:00 noon on the appointed day, and are opened publicly at 12:05 pm. (unless otherwise specified in the tender documents).

Each tender is reviewed to determine whether a bid irregularity exists, and action is

taken according to the nature of the irregularity (see Schedule B).

Tenders are tabulated and evaluated by the issuing department.

A report initiated by the issuing Department Head and approved by the CAO in accordance with the delegated authority by-law or reviewed by the CAO and submitted for Council consideration and approval is required.

Following the CAO or Council's approval, the Department Head shall either issue a purchase order, or ensure that a contract which legally binds the corporation is executed by the Mayor and Clerk.

Tender results, if requested, shall be made public by the CAO, Treasurer or Department Head

Schedule "D" REQUEST FOR PROPOSAL PROCESS

REQUESTS FOR PROPOSALS (RFPs) may be called instead of tenders, by way of public advertising or invitational bid, as outlined in the Municipal Procurement Policy:

- ✓ when requirements or services cannot be definitively specified, or
- ✓ when the requirements or services are non standard or specialized in nature, or
- ✓ the cost is only a minor component making up the award.

The User Department will initiate the RFP process by preparing documents, with input and assistance from the CAO if required.

Prior to printing, documents must be submitted to the CAO for review to ensure that all provisions other than specifications have been included in the proper format.

The Department Head will advertise and distribute RFP packages.

All public RFP's are advertised on the Municipal Website and in the local newspaper. Additionally, at the discretion of the Department Head, RFPs may be advertised in a regional newspaper, and/or other applicable trade publications (2 days lead time required). Advertisements must include the following information (if applicable): site meeting time/date/location, contacts names for technical and purchasing inquiries, document fee (if applicable), and location for pick up and drop off of bid documents.

The closing date is usually 14 calendar days after date of issue. However, an RFP may be closed in a shorter or longer period of time depending on the urgency or complexity of the item(s).

Request for Proposal document packages are available from the Municipality of Mississippi Mills upon request.

RFP's must be addressed to the CAO. All sealed submissions will receive a date and time-stamp.

The municipality will refuse to accept any submission that is

- ✓ not sealed
- ✓ received after the closing deadline
- ✓ submitted after an RFP has been cancelled.

Requests for withdrawal of an RFP shall be allowed if the request is made before the closing time for the contract to which it applies. Requests must be directed the CAO/Clerk by letter, or in person by a Senior Official of the company, with a signed withdrawal confirming the details. Telephone requests will not be considered. The withdrawal of an RFP does not disqualify a bidder from submitting another RFP on the same contract.

Proposals shall be opened at 12:00:00 on the appointed day for registration of bids or at such time as may be set out in the RFP.

Proposals received shall be evaluated on the basis of quantitative and qualitative criteria as outlined in the RFP document.

RFPs require the CAO's review prior to issuance and a report from the Department to the CAO or Council per municipal policies/by-laws for consideration and approval prior to the award is required. Following approval, a contract must be executed by the Mayor and Clerk.

RFP financial results, if requested, shall be made public by the CAO, Treasurer or Department Head.

Schedule "E"

LEASES

Leases are to be negotiated by the Chief Administrative Officer and the Department Head. The recommendation will be forwarded to the CAO or Council for approval. As a general principle, leases shall be considered when the following conditions are applicable:

When the expenditure of the goods or services is less than the purchase of goods and services.

When the replacement of goods or services will be required on an ongoing basis due to technology changes, extensive use of equipment etc.

The residual payment on the lease is negligible or justification can be made to accept a residual payment that is higher.

Leases will be treated in the same manner as purchase, based upon the retail value of the lease payment.

At the expiration of a lease, a replacement goods or product be re-quoted or re-tendered. Automatic "roll-over" of a lease payment into a new product must be authorized by the Chief Administrative Officer and/or Council as appropriate.

The report to the CAO or Council recommending the entering into a lease agreement will require the Chief Administrative Officer to include the following information:

- Value of product or service if being purchased
- Length of the lease
- Monthly and annual lease payments
- Residual Amount
- Interest

Once a lease has been negotiated and approved, a copy of the lease and documents must be forwarded to the Treasurer.

Schedule "F"

STATEMENT OF ETHICS

The following ethical principles shall govern the conduct of every Municipal employee with the authority to procure:

- Believes in the dignity and worth of the services rendered by the Municipality and the societal responsibilities assumed as a trusted public servant.
- Is governed by the highest ideals of honour and integrity in order to merit the respect and inspire the confidence of the Municipality and the public being served.
- Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.
- Keeps the Municipality informed through appropriate channels on problems and progress of applicable operations by emphasizing the importance of the facts.
- Follows the lawful instructions or laws of the Municipality.
- Understands the authority granted to them by the Municipality.
- Avoids activities which would compromise or give the perception of compromising the best interests of the Municipality
- Reduces the potential for any chance of preferential treatment by actively promoting the concept of competition.
- Obtains the maximum benefit for funds spent as agents of the Municipality.
- Maintains and practices to the highest degree possible, business ethics, professional courtesy and competence in all transactions with suppliers.
- Purchases without prejudice, striving to obtain the maximum value for each dollar of expenditure.
- Preclude from showing favouritism or be influenced by vendors through acceptance of gifts, gratuities, loans or favours.
- Adhere to and protect the suppliers business and legal rights to confidentiality for trade secrets and other proprietary information.
- Remain free of any and all interests and activities which are or could be detrimental or in conflict with the best interests of the Municipality.
- Refrain from engaging in activities where a municipal employee has a significant personal or indirect financial interest.
- Exercise discretionary authority on behalf of the Municipality
- Avoid acquiring interest or incurring obligations that could conflict with the interests of the Municipality.