



ADMINISTRATION

Title: Procurement / Purchasing Policy

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PURPOSE:

To secure and standardize the purchasing procedure for goods and services for the County of Minburn No. 27 through a fair, transparent, efficient, and economical process as deemed to be in the best interests of the County of Minburn No. 27.

1.0 GUIDELINES/SCOPE:

In accordance with the Canadian Free Trade Agreement (CFTA) and the New West Partnership Trade Agreement (NWPTA), all procurements of goods and services valued at \$75,000 or greater or construction valued at \$200,000 or greater, must be nationally advertised. The County will use the Alberta Purchasing Connection (APC) as its "posting agent" for these procurements. Such tenders and RFPs must be advertised through APC and via electronic methods, including the County of Minburn's website and social media pages.

2.0 PURCHASING AUTHORITY:

County of Minburn Council approves an annual budget which provides general direction in the operating and capital expenditures of the County. The CAO is authorized to delegate purchasing authority (as per Bylaw 1271-18) as required to department heads and staff. Such delegation of purchasing authority is addressed in the Delegation of Authority Procedure. All changes or alternate purchasing authority must be approved by the CAO.

2.1 Non-budgeted/Over-budget Expenditures

Any non-budgeted or over-budget expenditures exceeding \$15,000 will require the approval of Council.

2.2 Contingency Expenditures

Council contemplates the possibility of spending on emergent issues through the approval of contingency dollars in the annual Operating Budget. The CAO is given authority of provide approval for non-budgeted expenditures, for amounts less than \$15,000, provided that such amounts can be covered from within the 'Contingency' line of the annual operating budget. Advisement of such action, through standard mechanisms, will be provided to Council. The 'Contingency' line of the annual operating budget may not be taken into a negative position without Council approval

prior to the action being taken. Following approval of the CAO or Council, all non-budgeted or Contingency expenditures will be undertaken as outlined in this policy.

3.0 LOCAL PREFERENCE

Purchases shall be made at the lowest cost available, consistent with the required quality and service. Local contractors that meet such criteria shall have equal access to opportunities with the County.

The operating principle of NWPTA and CFTA is to ensure that Canadian suppliers are not discriminated against based on geographic location. This means that entities must consider persons, goods, and services from other provinces equal to their own. However, the County of Minburn recognizes the need to support its local economy and reserves the right to give preference to local suppliers and contractors for goods and services where the value of the procurement is below the thresholds set out in the NWPTA and CFTA agreements.

4. ETHICS AND FAIR CONDUCT

The County of Minburn will always conduct all commercial dealings in a fair and ethical manner.

5. PURCHASING

All Directors and Department Heads are responsible to ensure that budget funds are available for any expenditure commitments made by them or staff. They are also responsible for ensuring staff members with delegated purchasing authority have a complete understanding of the purchasing process and receive training on the completion and processing of the necessary commitment and purchasing documents.

Purchasing methods are not to be initiated with the intent of lowering approval levels for individual purchases.

All purchasing will be done on a competitive basis, except for:

1. Purchases under \$5,000, and
2. Emergency requirements.

Each exception shall have the appropriate purchasing authority and approvals.

Purchases made through an authorized buying group, such as RMA, have already been carried out in a manner that is consistent with CFTA and NWPTA and will not require to go through the following procedures again.

6.0 PURCHASING APPROVALS

The following table outlines the process required for each type and/or value of purchase.

Types of Purchase	Purchase Price / Total Contract Value	Process	Minimum Approval Required
Goods and Services (incl. vehicles & heavy equipment)	Up to \$5,000	Direct purchase or discretion of Senior Manager	Director / Department Head
Goods and Services (incl. vehicles & heavy equipment)	\$5,001 - \$25,000	Minimum 3 Quotes / RFQs	Director / Department Head
Goods and Services (incl. vehicles & heavy equipment)	\$25,001 - \$74,999	Minimum 3 Quotes / RFQs, or formal tendering process (at discretion of CAO)	Chief Administrative Officer
Goods and Services (incl. vehicles & heavy equipment)	\$75,000 - \$100,000	Formal Tender / RFP Process	Chief Administrative Officer
Goods and Services (incl. vehicles & heavy equipment)	>\$100,000	Formal Tender / RFP Process	County Council
<u>Construction</u>			
Construction	Up to \$50,000	Minimum 3 Quotes / RFQs or an Invitation to Tender/RFP process with an executed contract	Director / Department Head
Construction	\$50,001 - \$74,999	Minimum 3 Quotes / RFQs or a Formal Tender / RFP process	Chief Administrative Officer
Construction	>\$75,000	Minimum 3 Quotes or Tender / RFP process with an executed contract	County Council

- 6.1 To allow flexibility and efficiency within purchasing scenarios, Directors, Department Heads, and the CAO are given the authority to vary process requirements for purchases noted above. When using this discretion, Directors and Department Heads are to ensure they maintain the integrity of the overall purchasing policy. Directors are to notify the CAO in writing when any such variances has been undertaken.

6.2 Signing Authority

- a. Signing authority for contracts or purchases is based on the above purchasing authority values. The CAO has authority to sign agreements on the County's behalf for those goods, services, and construction arrangements based on the purchasing thresholds he/she can approve. The CAO may delegate this signing authority as deemed appropriate by him/her.
- b. A contract or agreement requiring Council's signature shall be signed by the Reeve or Deputy Reeve and the CAO or Director of Finance and Administration, unless otherwise delegated by Council to the CAO.

7.0 **TENDER, RFQs, RFPs**

7.1 Request for Quotations (RFQ):

- a. All Requests for Quotations should be in writing and from a minimum of three suppliers unless noted otherwise in the purchasing guidelines. If a written quote is not obtainable, verbal quotes must be fully documented with any supporting documentation attached. The Chief Administrative Officer may approve purchasing goods and services with less than three quotes on a case-by-case basis.

7.2 Invitation to Tender/Request for Proposal (RFP)

- a. The formal tendering process is intended to ensure that all interested individuals and organizations are given an equal opportunity of providing goods and services in response to the identified needs of the County.
- b. The process for issuing Tenders/RFPs will be governed by the procedures of the County.
- c. Responsibility for the preparation of the required specifications, Tender/RFP documents and advertising rests with the department requiring the goods and/or services.
- d. The lowest bid tender/proposal will not necessarily be accepted, depending on the goods and service being tendered/requested. Bid evaluation and selection may be based upon quantitative and qualitative criteria, which is to be identified and documented prior to the close of the tender/proposal call. The nature of the evaluation and selection criteria and methods of evaluation will be made known to prospective suppliers in the Tender/RFP document.
- e. Adequate documentation to record the evaluation and selection process will be created and retained.
- f. All Tenders, RFPs, or Invitation to Tender will have the following clause attached (variations may be made at the discretion of the Chief Administrative Officer):

The County of Minburn reserves the right to accept or reject any and all Tenders/Proposals, and to waive irregularities, informalities and non-compliance at its discretion. The County reserves the right to award a Tender (Proposal) other than the lowest Tender (Proposal) without stating reasons and, without limiting the generality of the foregoing, the County may consider any other factor(s), besides price, capability to perform the work and proposed specifications, in its sole and unfettered discretion. By submitting its Tender (Proposal), the Bidder/Proponent waive any right to claim, in any proceeding or court action, for loss of anticipated profit or for any other damages in excess of the reasonable costs incurred by the Bidder/Proponent in preparing its Tender.

7.3 Purchases Involving Other Partners

- a. The County may jointly tender or request price quotes with other municipalities, municipal organizations, senior governments, or other government organizations if there is an opportunity for obtaining goods and/or services at a more cost-effective price. Purchasing involving other partners must comply with CFTA and NWPTA. Any involvement in joint tendering or price quotes shall be approved by the Chief Administrative Officer.

7.4. Request for Tender vs Request for Proposal:

- a. A Request for Tender should generally be issued when the following criteria apply:
 1. Two or more sources are considered capable of supplying the requirements;
 2. The requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria;
 3. The market conditions are such that tenders can be submitted on a common pricing basis; and
 4. It is intended to accept the lowest price compliant bid without negotiations.
- b. A Request for Proposal should generally be issued where one or more of the criteria for issuing a Request for Tender cannot be met, such as:
 1. Owing to the nature of the requirements, suppliers are invited to propose a solution to a problem, requirement or objective and the selection of the supplier is based on the effectiveness of the proposed solution, including price, rather than on price alone; or
 2. It is expected that negotiations with one or more bidders/proponents may be required with respect to any aspect of the requirement. In general, the Request for Proposals process encourages different solutions from vendors and actively searches for better and more creative ideas for supply of goods and services. It provides a process whereby the negotiation and award are based on demonstrated competence, qualifications, and the technical merits of the Proposal at a fair price.

7.5 Award Considerations:

- a. In addition to price, consideration may be given to other factors in determining the successful bidder/proponent, including:
 1. The ability and skill of the bidder/proponent to provide the goods or services requested.
 2. The ability of the bidder/proponent to perform the contract or provide the services promptly or at the time specified without delay or interference;
 3. The character, integrity, reputation, judgement, experience and efficiency of the bidder/proponent;
 4. The quality and performance of previous contracts, goods or services, provided by the bidder/proponent;
 5. The sufficiency of the financial resources and the ability of the bidder/proponent to perform the contract or provide the goods or services (this includes reviewing the bidder's/proponent's payment history with the County if necessary);
 6. The quality, availability and adaptability of the goods or contractual services to the particular use required, and ability to best meet the County's operational needs;
 7. The ability of the bidder/proponent to provide future maintenance and services for the items acquired;
 8. The number and scope of conditions attached to the bid/proposal;
 9. Any litigation between the bidder/proponent and affiliated individuals and corporations and the County whether pending, past, threatened or suggested; and
 10. The Total Acquisition Cost of the goods and/or services covered by the bid or proposal.
- b. The County of Minburn reserves the right to customize RFQ and RFP scoring metrics on a case-by-case basis, given the varying requirements between different procurements and projects.

7.6 Purchase by Negotiation:

- a. All purchases of goods and services shall be competitive, and in accordance with the guidelines set out in Section 7 herein. However, there may be instances where this is not possible and purchase by negotiation is necessary.

7.7 Documentation:

- a. All documentation will be filed in accordance with the corporate records structure to ensure legal retention timelines are met.

7.8 Conflict of Interest

- a. No requisition, purchase order, voucher, petty cash funds or any other order, written or verbal, shall be issued for personal goods and/or services for employees of the County, a member of County Council, or the public, unless approved by Council or a policy adopted by Council.
- b. If a purchase or contract for goods or services is to be placed with:
 - i. An employee of the County,
 - ii. Any company in which an employee of the County has an interest, or
 - iii. A relative of an employee of the County, the employee shall declare an interest and that employee shall not be placed in a position to approve the purchase.

8. **DISQUALIFICATION**

- 8.1 For the purposes of this section, Bidder and Supplier shall be deemed to include any related entity and any partner, principal, director or officer of such Bidder or Supplier as well as any other legal entity with one or more of the same partner(s), principal(s), director(s) or officer(s).
- 8.2 A Bidder or Supplier may be excluded from eligibility to submit a bid, proposal or quote or a submitted bid, proposal or quote may be summarily rejected and returned to a Bidder or Supplier where the County determines, in its absolute sole discretion that one of the following circumstances has occurred:
 - a. the Bidder or Supplier is or has been involved in litigation with the County, its elected officials, or employees;
 - b. the Bidder or Supplier has failed to pay an amount owed to the County when due and owing;
 - c. there is documented evidence of poor performance, non-performance or default by the Bidder or Supplier in relation to any contract with the County or goods, work or services otherwise provided to the County;
 - d. the Bidder, Supplier or its personnel have demonstrated abusive behaviour or threatening conduct towards County employees, their agents or representatives;
 - e. the Bidder or Supplier has been convicted of a criminal offence including but not limited to fraud or theft; or

- f. the Bidder or Supplier has been convicted of any quasi-criminal offence pursuant to applicable legislation or regulations including but not limited to the *Occupational Health and Safety Act*, where the circumstances of that conviction demonstrate a disregard on the part of the Bidder or Supplier for the health and safety of its workers, County employees or the general public.
- 8.3 In arriving at a determination for the disqualification of a Bidder or Supplier pursuant to this section, the County will consider whether the circumstances are likely to affect the Bidder or Supplier's ability to work with the County, its consultants and representatives, and whether the County's experience with the Bidder or Supplier indicates the County is likely to incur increased staff time and/or legal costs in the administration of any dealings with the Bidder or Supplier.
- 8.4 Based on the severity of the events leading to the disqualification, the County shall establish the duration of the period during which the disqualification shall be effective.
- 8.5 In the event the County concludes that a Bidder or Supplier should be disqualified pursuant to this section, it shall first provide written notice to the Bidder or Supplier indicating the County's intention to disqualify the Bidder or Supplier, its reasons for doing so, and the duration of the intended disqualification. Such notice shall indicate that the Bidder or Supplier will have a period of at least fourteen (14) days to respond to such notice in writing, setting out (if the Bidder or Supplier so chooses) any reason it opposes or disputes either the disqualification or the duration of the disqualification.
- 8.6 Any notice of appeal from an affected Bidder or Supplier received by the County within the time frame set out in section 9.5 shall be reviewed and considered by the CAO, who may either uphold, overturn, or vary the terms of disqualification. Any such decision will be final and not subject to further appeal, and will be communicated in writing to the Bidder or Supplier.

9. DEFINITIONS

- a. **CFTA** means the Canadian Free Trade Agreement which replaced the Agreement on Internal Trade. The agreement is intended to reduce and eliminate, to the extent possible, barriers to free movement of persons, goods, services, and investments within Canada. This includes local preferences in municipal or provincial procurement. Procurement covered by CFTA requires national advertising of purchasing opportunities Canada wide via the Alberta Purchasing Connection or COOLNet. CFTA specifies exceptions to advertising requirements for purchases less than a minimum financial threshold amount, as well as procurement of certain types of goods and services in certain specific contexts, as set out in the agreement.
- b. **Chief Administrative Officer (CAO)** is the person appointed as the Chief Administrative Officer according to the *Municipal Government Act*, or a person delegated responsibility by the Chief Administrative Officer in this policy in accordance with the *Municipal Government Act*.

- c. **Construction Project** includes roads and infrastructure construction (water, sewage, landfills, buildings, site improvements, etc.), which would result in a tangible capital asset. Examples include:
 - i. Construction and paving of streets and roads;
 - ii. Intersection lighting;
 - iii. Fiber optics;
 - iv. Water, sewer and other utility lines;
 - v. Bridge construction.
- d. **Direct Purchase** shall mean the direct ordering and purchase of goods and services from a supplier with or without negotiation. This method of purchase will be used primarily for the purchase of low value goods where the cost and administrative burden of other methods of purchase may be equal to or greater than the price or value of the goods purchased. Employees are encouraged to use their own judgement to promote the principles of this policy in any direct purchase.
- e. **Goods and services** shall mean all non-construction purchases including professional services and operational contracts. Examples include:
 - i. Furniture and equipment;
 - ii. Office supplies;
 - iii. Grader blades;
 - iv. Fuel;
 - v. Tires;
 - vi. Computer hardware and software;
 - vii. Janitorial services;
 - viii. Legal services;
 - ix. Engineering services;
 - x. Maintenance agreements;
 - xi. Vehicles and heavy equipment.
- f. **Goods and Services Tax (GST)** means the Goods and Services Tax or Harmonized Sales Tax as described in the *Excise Tax Act*. All numbers in this policy exclude GST.
- g. **Invitation to Tender** means the initiating step of a competitive tendering process in which qualified contractors are invited to submit bids for construction or for supply of specific and clearly defined goods or services during a specified timeframe. Also commonly referred to as a Request for Tenders.
- h. **Negotiated Method** shall mean the negotiation of an agreement for the purchase of goods and services from a supplier where there is no open competition. The conditions under which this method of purchase can be utilized are listed in the Purchasing Procedure Manual – Procedure B – Purchase by Negotiation.
- i. **New West Partnership and Trade Agreement (NWPTA)**, formerly the **Trade, Investment, and Labour Mobility Agreement (TILMA)**, is a companion agreement to the AIT in Alberta, British Columbia, Saskatchewan and Manitoba. It prescribes goods and services of \$75,000 and over and construction projects of \$200,000 and over, with some exceptions and described in the agreement.

- j. **Relative** shall be defined as per the definition of councillor's family, under Section 169(b) of the *Municipal Government Act*, and shall apply to both relatives of County councillors and County employees. For further clarification, this is defined as the councillor's or employee's spouse or adult interdependent partner, the councillor's or employee's children, the parents of the councillor or employee and the parents of the councillor's or employee's spouse or adult interdependent partner.
- k. **Request for Tender** shall mean a competitive method of purchase which may include supplier or contractor pre-qualification. The tender process follows the general procedures set out in this policy.
- l. **Request for Proposal** shall mean a method of purchase which involves the solicitation of proposals. It may include pre-qualification. In this method of purchase, some or all specifications and contract terms may not be finally determined with sufficient certainty to form the basis of a final contract before proposals are solicited and submitted. It may be expected that there will be some variation in the final specification and contract terms among and between responsive proponents.
- m. **Request for Quotes/Price Quotation (RFQ)** shall mean a competitive method of purchase where the specifications for the goods and services and terms of purchase will be established with enough particularity to permit comparable quotations to be made by suppliers. A sufficient number of suppliers are requested to submit quotations on the specifications and terms of purchase. The Request for Quotation process does not require advertising and the receipt of sealed bids and is generally an informal process.
- n. **Senior Manager** shall mean the Senior Manager responsible for the Tender/RFP/RFQ, or a person designated by the Senior Manager.
- o. **Total Acquisition Cost** – includes but is not limited to such factors as repairs, fuel consumption, operating cost per hour (or other unit of measure), staff training, suitability, compatibility, warranty, trade-in values, recycling and disposal concerns.



Chief Administrative Officer