

Purchasing & Procurement

St. Marys Business Improvement Area (BIA)

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The purposes, goals, and objectives of this by-law and of the procurement procedures authorized herein are:

- to obtain the highest quality goods, services or construction possible within the timing and funding available;
- to ensure fairness, objectivity and transparency in the procurement process; and,
- to ensure consistency with the Town of St. Marys' policies and procedures.

This policy shall be reviewed and evaluated for effectiveness at least every three (3) years from the date of its enactment.

1.0 RESPONSIBILITIES AND AUTHORITY

- 1.1 This policy authorizes the Board of Management for the St. Marys BIA and where applicable and according to the Constitution of the St. Marys BIA, the Executive Committee and other delegates, to act as the legal Purchasing Agent.
- 1.2 Goods or services will be purchased as within the "Approval of Financial Transactions" of the St. Marys BIA Constitution, 2018.
- 1.3 The BIA Board of Directors shall have the responsibility and authority for the procurement of goods, services or construction for BIA-approved projects and/or for authorizing the procurement of goods, services, or construction by a Committee or Sub-Committee provided that:
- a) no expenditure, purchase or commitment shall be incurred or made, and no account shall be paid by the BIA for goods, services or construction, except as provided in this policy;
 - b) no Contract shall be entered into and no expenditure shall be authorized or incurred unless the BIA has provided funds for such purpose in the annual budget or otherwise agreed to the provision of such funds and no expenditure shall be authorized or incurred in excess of the funds provided unless otherwise authorized under this policy;
 - c) in all cases, proof of the receipt of goods, services or completion of construction as per the Contract(s) will be provided to the BIA Treasurer before payment is made to a supplier; and,
 - d) all proposed expenditures shall be supported by original invoices, vouchers, or requisition forms with satisfactory detail to support a purchase.
- 1.4 All payments for goods, services and construction shall be made by cheque issued by the Treasurer. The Treasurer may pay for the purchase of goods, services and construction prior to the Board's approval for the purpose of meeting a due date, avoiding a penalty or interest charge, or to receive a discount for early payment.
- 1.5 For the purposes of budgetary controls, the Treasurer shall provide the BIA Board with a current financial report at the end of each month and/or at each Board Meeting as part of the Agenda Package. **The financial report shall be in the form of xxx.**
- 1.6 The Treasurer shall be responsible for:
- a) providing procurement advice to those responsible to prepare calls for bids within the BIA;
 - b) ensuring that calls for bids issued by the BIA generally comply with the requirements of this policy;

- c) developing co-operative purchasing plans with other stakeholders where such plans are determined to be in the best interests of the BIA;
- d) standardizing the procurement procedures within the BIA; and,
- e) preparing reports to the Board where such reports are required to be submitted to the Council of the Town of St. Marys under this policy.

- 1.7** The St. Marys BIA Board will monitor adherence to the provisions of this document adopted for its use. Failure to comply with this document will be reported to the Treasurer. Continued non-compliance shall be reported to the St. Marys Board of Management.
- 1.8** St. Marys BIA Board Members will be responsible for maintaining good vendor relations and for the conduct of all negotiations with vendors subject to the other provisions of this document.
- 1.9** If required, the St. Marys BIA Board Chair, Treasurer, or delegate will request assistance from the Town of St. Marys prior to the outset of calling for Requests for Proposal (RFPs), Requests for Quotations (RFQs), Tenders and all matters that require further expertise.
- 1.10** All inquiries regarding materials, prices, services, delivery, terms, conditions and adjustments, are to be conducted by or through the Chair or delegate (e.g. Project Lead, Treasurer).
- 1.11** Despite any other provision of this document, where regular BIA Board Meetings are not scheduled either during the summer recess or for any other reason, or during the period that the acts of the BIA Board are restricted under the Municipal Act, 2001, as such provision may be amended from time to time, the Chair and the Treasurer shall be authorized to award any Contract that comes within their respective area of authority, provided that the proposed purchase comes within the approved budget appropriations. A report shall be submitted to the Board as soon as reasonably practicable describing the details of any Contract awarded under the above provision.
- 1.12** The BIA does not have to accept the lowest bid if:
- a) there is a contravention to the St. Marys BIA Code of Conduct; or,
 - b) the lowest bid is or will result in a Conflict of Interest.

2.0 PROCESSES FOR AUTHORIZATION OF PURCHASES

2.1 Purchases under \$1000

Purchase Orders shall not be required for purchases under \$1000, although a Board Member may determine that a Purchase Order is a mandatory practice for all purchases.

Purchases under \$1000, when a supplier has not extended credit to the BIA, may be paid through the petty cash fund, which shall be administered by the Treasurer, by cheque, or by credit card. In circumstances where a purchase is paid from the petty cash fund, an original receipt or voucher indicating the nature of the expenditure, the supplier, the amount paid (including taxes), and the account to be charged, shall be provided to the Treasurer for reimbursement from the petty cash fund.

2.2 Purchases exceeding \$1000 but not exceeding \$5000

Where the total cost of any goods, services or construction does not exceed five thousand dollars (\$5000), a written quotation for identical goods, services or construction shall be obtained from at least three (3) suppliers if available, which shall be recorded by the Treasurer in the prescribed manner.

2.3 Purchases exceeding \$5000 but not exceeding \$10,000 and within the scope of the BIA's knowledge and experience

Where the total cost of any goods, services or construction exceeds five thousand dollars (\$5000) but does not exceed ten thousand dollars (\$10,000) and are within the BIA's scope of knowledge and experience, the BIA shall obtain at least three (3) written quotations provided that the proposed purchase comes within the approved budget appropriations.

2.4 Purchases exceeding \$5000 and not within the scope of the BIA's knowledge and experience

Where the specifications for the goods, services, or construction proposed to be purchased are highly technical, may be subject to interpretation or confusion, and/or are outside of the scope of knowledge and experience of the BIA Board of Management, the BIA shall consult with the Town about how to proceed with a request for quotations, request for proposals, or other process and/or follow the Town's Procurement Policy and By-law.

2.5 All calls/requests for quotations, proposals, tenders and documentation shall be circulated and advertised in as wide and extensive manner as will ensure the best, most comprehensive and most competitive responses.

2.6 Evaluation criteria and weightings shall be established prior to calls/requests for quotations, proposals, and tenders. All calls, requests and documentation shall clearly specify how each of the applicable criteria shall be utilized in evaluating the bids; bids shall be publicly opened on the specified date, at the specified time, provided that such procedure shall not apply in the case of a request for proposals.

2.7 All submissions to quotations, proposals, and tenders shall be fairly and completely evaluated on the basis of an open, fair and transparent process, as the circumstances may reasonably allow.

2.8 The evaluation of each quotation, proposal and tender shall be recorded using a standardized form of evaluation record; the evaluation record shall be stored and shall only be destroyed in accordance with the Town's records retention by-law and procedures.

2.9 Any irregularity shall be referred to the Board of Directors and/or Town of St. Marys.

3.0 CHEQUE APPROVALS

3.1 Invoices are required to have two initials of those in a position of signing authority before a cheque is dispensed for payment, along with the cheque number, date of issue, and account to which it is charged.

3.2 Signing officers include those members of the Executive Committee including the Chair, Vice-Chair, Treasurer and Secretary.

4.0 PURCHASING GUIDELINES

- 4.1 Purchase of goods, services or equipment will be made on a competitive basis, in keeping with accepted public purchasing practices and in accordance with the applicable federal, provincial and municipal laws.
- 4.2 The BIA shall not apply any local preference policy in respect of any procurement process in a manner that would breach any law or policy applicable to the BIA.
- 4.3 Splitting of purchases to avoid any of the purchasing processes or policies outlined in this document is prohibited.

5.0 LEASING

- 5.1 In certain cases, it may be economically advisable to enter into a Financing Lease to acquire the rights to use capital property and equipment rather than an outright purchase. In this case, the St. Marys BIA will follow the Municipal Act, 2001, Regulation 46/94 as amended by 401/02.
- 5.2 All lease arrangements must be reviewed by the St. Marys BIA Board of Management. The following information is to be received prior to review:
- The total amount to be borrowed as compared to the cost of the equipment or capital property.
 - Disclosure of the interest rate and whether it is a variable or fixed; copy of the master schedule including a complete schedule of all fixed payments.
 - How the payments are to be made (monthly, quarterly, yearly).
 - Administrative fees (Credit investigation, registration, billing surcharges, insurance, etc.).
 - Termination Penalties.

6.0 COOPERATIVE BID CALLS

- 6.1 The St. Marys BIA Board of Management will have the authority to join or participate with other units of government and/or organizations, including local boards, commissions and agencies in cooperative purchasing and bulk buying of goods and services.
- 6.2 Purchases made through a cooperative buying procedure requires approval as outlined in this policy. As such, the calling agency's Terms and Conditions will apply.

7.0 SPECIFICATIONS

- 7.1 Detailed specifications and Terms of Reference should be included in RFPs, RFQs, or any calls for quotations/tenders to ensure that the bids can be compared equally.
- 7.2 Where specifications are detailed and may be brand specific, care shall be taken to ensure potential vendors may provide alternatives in the event an equal or better-proven product or method is available.

8.0 DISPOSAL OF SURPLUS

- 8.1** Goods purchased by the St. Marys BIA that are declared surplus, obsolete or not repairable will be reported to the St. Marys BIA Board of Management unless the item has limited market value or is perishable. In this case, the Member leading the project may dispose of the products(s).
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9.0 CONFLICT OF INTEREST

- 9.1** No elected member or employee of the St. Marys BIA may purchase goods or services for personal use through the St. Marys BIA.
- 9.2** No elected member or employee of the St. Marys BIA will allow contact outside of the Procurement and Purchasing Process with a person, or any officer, employee or agent of the person who has submitted a bid to the St. Marys BIA and unless the bid call has been awarded.
- 9.3** No elected member or employee will purchase or offer to purchase any goods or services on behalf of the St. Marys BIA, except in accordance with this policy.
- 9.4** No contract or purchase will be divided to avoid requirements of this policy.
- 9.5** BIA Members can submit quotations and/or reply to requests for proposals and requests for tenders for any goods or services requested by the St. Marys BIA.
- 9.6** Board Members must declare a Conflict of Interest and recuse themselves from discussions and decisions if requests for quotation and/or calls for bids or calls for tenders are seen as related to their business, as per the Constitution and Code of Conduct.
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10.0 LEGAL CLAIMS

- 10.1** No tender, proposal or quotation will be accepted from any company which has a claim or instituted a legal proceeding against the St. Marys BIA or against whom the St. Marys BIA has a claim or instituted a legal proceeding with respect to any previous contract, without prior approval by the St. Marys BIA Board of Management.
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11.0 ADMINISTRATION

- 11.1** The St. Marys BIA Staff and Board of Management will bring forward amendments to this policy, whether adding new clauses or adjusting those currently in force.
- 11.2** The St. Marys BIA may set up Committees for the purposes of managing Expressions of Interest, Request for Tenders, Request for Proposals, and other items regarding procurement and purchasing.

12.0 PROCESSES FOR SECURING GOODS, SERVICES AND CONSTRUCTION

12.1 Request for Expressions of Interest: to determine availability of goods, services or construction

12.1.1 The Member responsible for the purchase of goods, services or construction may conduct a request for Expressions of Interest for the purpose of determining the availability of any goods, services or construction.

12.1.2 The receipt of a submission in response to a request for Expressions of Interest shall not create any contractual obligation on the part of the BIA.

12.1.3 A request for Expressions of Interest may be conducted as a condition to another procurement procedure set out in this by-law.

12.1.4 The Member responsible for the purchase of goods and/or services may conduct a request for pre-qualification for any goods, services or construction for the purpose of selecting qualified bidders to respond to a call for bids, if the nature of the work to be performed requires ascertainable minimum standards. When a request for pre-qualification is issued, a pre-qualification bid document shall be provided to potential bidders setting out the criteria for pre-qualification, which may include:

- experience of similar work; references provided from customers in respect of similar work;
- verification of applicable licenses and certificates, if applicable; and,
- financial capability of the bidder.

12.1.5 The selection of potential bidders following a request for pre-qualification shall not create any contractual obligation between the BIA and any pre-qualified bidder, unless the request for pre-qualifications document expressly so prescribes.

12.2 Request for Tenders: to allow for comparison

12.2.1 A Request for Tenders shall be issued where the following criteria apply:

- two or more sources are considered capable of supplying the goods, services or construction;
- the goods, services or construction are clearly attainable and permit the evaluation of bids against applicable specifications;
- the market conditions are such that bids can be submitted on a competitive pricing basis; and,
- it is intended that the lowest cost responsive bid shall be accepted without negotiation.

12.2.2 The BIA Board shall award the Contract in accordance with the recommendation made to it by the Committee or person(s) responsible for the purchase of goods, services or construction, provided that the Board shall have the authority to reject such

recommendation where the procedures prescribed in this by-law or the specific call for bids have not been complied with, or for any other grounds for which the authority is set out in this Policy.

12.3 Request for Proposals (RFPs): to allow for different alternatives to fulfill requirements

12.3.1 A Request for Proposals shall be issued where the goods, services or construction cannot be specifically defined and it is anticipated that bidders may propose a variety of alternatives to fulfil the BIA's requirements.

12.3.2 The Board shall award the Contract in accordance with the recommendation made to it by the Committee and/or person(s) responsible for the purchase of goods, services or construction, provided that the Board shall have the authority to reject such recommendation where the procedures prescribed in this Policy or the specific call for bids have not been complied with, or for any other grounds for which the authority is li set out in this Policy.

13.0 STANDING AGREEMENTS

13.1 A call for bids may be issued for the purpose of establishing the terms of an Agreement for the purchase of specified goods, services or construction for a specified time.

13.2 The BIA shall have no obligation to any supplier to order any goods, services or construction under a Standing Agreement.

13.3 Where the BIA establishes a Standing Agreement, the BIA shall refresh the Standing Agreement at least once every two years, making it possible for new suppliers to be included in the Standing Agreement.

14.0 EMERGENCY PURCHASES AND SOLE SOURCE PURCHASES

14.1 Notwithstanding any other requirement of this Policy, circumstances may arise where competitive tendering is undesirable and a proposed procurement excluded from the requirement to obtain competitive bids, or where direct negotiations are appropriate, provided that such measures are not taken for the purpose of avoiding competition, discriminating against any supplier, or circumventing any requirement of this by-law. Such circumstances include the following:

- a) When an emergency has been declared, a purchase of goods and/or services may be made by the Board Member/Committee Chair/Project Lead, or delegate, in which case the goods, services or construction shall be acquired by the most expedient and economical means. In all such cases, an information report to the Board shall be prepared by the appropriate person setting out the nature of the emergency and the necessity of the action taken as a result.
- b) Conditions may dictate the conduct of negotiations for the acquisition of goods, services or construction, provided that the Chair has received either verbal or written authorization

prior to the start of negotiations with any supplier. Negotiations may be authorized when any of the following conditions apply:

- the goods or services are judged to be in short supply due to market conditions;
- there is only one known source for the goods or services (sole source);
- two or more identical bids have been received;
- the lowest bid received meeting specifications is excessive in total cost or substantially exceeds the BIA's estimated costs;
- all bids received fail to meet the specifications or terms or conditions of the bid document and it is impractical to recall the process;
- a single source is being recommended because it is more cost effective or beneficial (e.g. specific expertise) for the BIA but not due to a lack of planning;
- the extension of a Contract that has expired and unforeseeable circumstances have caused a delay in issuing a new tender/request for proposal process;
- there is a time-sensitive works situation; or,
- there is an expanded works for an approved project already in process.

15.0 CONTINGENCIES

- 15.1** Where any purchase of goods, services or construction has been authorized under this policy, the Chair may authorize disbursement of additional funds, provided that such additional funds shall not exceed fifteen percent (15%) of the total cost of the original contract, and provided that the additional funds are required to complete the work set out in the original contract.

16.0 ADDING TO A CONTRACT: PURCHASE OF ADDITIONAL GOODS, SERVICES OR CONSTRUCTION

- 16.1** Where goods, services or construction have been purchased under this policy, no similar, additional or related goods, services or construction shall be purchased from the same contractor, whether by way of contract extension, renewal, or separate purchase, unless:
- a) a report is submitted to the Board;
 - b) the procurement procedures set out in this by-law are complied with as if the additional purchase is a new contract;
 - c) the total cost of the additional goods, services or construction does not exceed fifteen percent (15%) of the total cost of the original contract; or,
 - d) the total cost of the additional goods, services or construction is to be paid in full by a third party and security to ensure payment is in place, to the satisfaction of the Chair and/or Treasurer.
- 16.2** Any amount authorized under this policy may be expended in addition to any contingency allowance and may be authorized by the Chair irrespective of the total cost of the original contract.
- 16.3** The Executive Committee may jointly authorize the purchase of additional goods, services or construction provided that:
- a) the requirement for the additional goods, services or construction could not reasonably have been anticipated at the time of the award of the original contract;

- b) the authorization to purchase the additional goods, services or construction is required to prevent interruption in service delay or to avoid incurring extra costs;
- c) a request is submitted to the Board on a form prescribed by the Budget Committee;
- d) the cost is within the approved budget; and,
- e) a report shall be submitted to the Board to advise of any expenditures made under section 18.1 of this procedure.

17.0 CONTRACTOR PERFORMANCE

- 17.1** The Board /Committee Chair/Project Lead shall be responsible for monitoring the performance of contractors and documenting evidence of such performance.
- 17.2** The Board /Committee Chair/Project Lead may prohibit a supplier whose performance in providing any goods, services or construction to the BIA has been unsatisfactory from submitting a bid in response to a call for bids in accordance with policies adopted by the BIA Board.

18.0 BID EVALUATION COMMITTEE

- 18.1** The Chair can establish a Bid Evaluation Committee composed of, at a minimum, three Members. Members must include at least one standing Board Member, and can also include a standing Member of Council, a St. Marys Staff Member with special experience, and an outside person with specialized skills, knowledge and/or expertise.
- 18.2** If a bid contains an informality or irregularity, or if there is a challenge to the call for bids process, the issue shall be referred to the Bid Evaluation Committee to determine whether the bid complies with the submission requirements set out in the call for bids or to determine the validity of the challenge. If the Bid Evaluation Committee does not agree unanimously that the bid shall be accepted or rejected, a report shall be prepared for submission to the Board setting out the nature of the informality, irregularity or challenge and the proposed action to be taken.

19.0 TIE BIDS

- 19.1** Tie bids are those that are identical in price where the price is the determining factor. Tie bids shall be treated by attempting to identify qualitative factors between the bids that may generate a benefit to the BIA from one bidder and not the other(s). Such factors include, but are not limited to:
 - a) Will an earlier proposed delivery date for the goods, services or construction provide a benefit to the BIA?
 - b) Does one bidder have a proven track record of contracting with the BIA that can legitimately justify giving such a bidder additional consideration?
 - c) Does one bidder's bid show that such a bidder is prepared to assume a higher level of responsibility?
 - d) Is there a difference in the quality of the goods, services or construction proposed to be provided by the bidders?
 - e) Where the bids are equal in every respect, the BIA shall attempt to split the award between the bidders, provided that doing so is in the best interest of the BIA.

- f) Where the bids are equal in every respect and where splitting the award would not be in the best interest of the BIA, the Budget Committee may use one of the following methods, based upon the specific circumstances:
- (a) use a coin toss to select the successful bidder;
 - (b) request that the tied bidders submit new bids; and/or,
 - (c) directly negotiate with the tied bidders to break the tie.

20.0 CONTRACT DOCUMENTS

- 20.1** Where the purchase of goods, services or construction has been authorized under this policy and is up to \$10,000 and within the scope of the BIA's knowledge and experience or over \$5000 and not within the scope of the BIA's knowledge and experience, the BIA will defer to the Town's Procurement and Purchasing Policy.

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