

THE CORPORATION OF THE TOWNSHIP OF CONMEE
BY-LAW NO. 1270

Being a By-law to govern the procurement and purchasing policies and procedures for the Township of Conmee.

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THE CORPORATION OF THE TOWNSHIP OF CONMEE
BY-LAW NO. 1270

Being a By-law to govern the procurement and purchasing policies and procedures for the Township of Conmee.

WHEREAS Section 270(1) of the Municipal Act, 2001 imposes upon municipalities the obligation to adopt policies with respect to the procurement of goods and services;

AND WHEREAS this By-law establishes the authority and sets out the methods by which goods and services are purchased and disposed of;

NOW THEREFORE the Council for the Corporation of the Township of Conmee enacts as follows:

1. Purposes, Goals and Objectives

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

- a) to encourage competition among suppliers
- b) to maximize savings for the taxpayer
- c) to ensure service and product delivery, quality, efficiency and effectiveness
- d) to ensure fairness among bidders
- e) to ensure openness, accountability and transparency while protecting the financial interests of the Township
- f) to have regard to the accessibility for persons with disabilities to the goods and services purchased by the Township.

2. Definitions

2.1 Overview:

The definitions in the lettered paragraphs of this by-law are intended to be applied to the defined terms when they appear within the text of this By-law with their initial letters capitalized.

- a) "Annual Aggregate Value" means the total amount anticipated to be spent annually by all departments on a particular type of Goods and Services.
- b) "Approved Invoice" means an original supplier's invoice issued at the time of purchase of low dollar goods or services not exceeding \$499 and which bears the signature of an appropriately authorized employee.

- c) "Asset Management Plan" means the plan maintained by the Township as a requirement of the Province which tracks the age and condition of the Township's various buildings, properties, equipment and other valuable assets.
- d) "Award", "Awarded" and "Awarding" means authorization to proceed with the purchase of goods or services from a chosen supplier.
- e) "Bid" means an offer or submission from a potential vendor, contractor or consultant in response to a Bid Request. The term "Proposal" is typically used in place of "Bid" when the Bid Request was a Request for Proposals.
- f) "Bid Bond" means the form of security required by the terms and conditions of bid solicitation documentation to guarantee that the successful bidder enters into a contract with the Township of Conmee.
- g) "Bid Solicitation" means a formal request for bids that may be in the form of a Tender or Request for Proposal.
- h) "Clerk" means the Clerk for the Township or a designate
- i) "Construction" means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling seismic investigation, soil investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering design or architectural work, but does not include professional services related to the construction contract unless they are included in the specifications for the procurement.
- j) "Contract" means any agreement, regardless of form or title, for the lease, purchase or disposal of goods or services authorized in accordance with this By-law.
- k) "Council" means the Council for the Corporation of the Township of Conmee.
- l) "Council Approved Budgets" means Council approved department budges including authorized revisions, or where applicable, Council approved budgets of local boards to which this By-law applies.
- m) "Department" means an organizational unit of the Township of Conmee headed by a Manager.
- n) "Department Head" means the supervisor of any department or their designate.

- o) "Electronic Advertising" means the use of a computer based system directly accessible by suppliers irrespective of their location that provides suppliers with information related to bid solicitations.
- p) "Emergency" means a situation, or the threat of an impending situation, which may affect the environment, the life, safety, health and/or welfare of the general public, or the property of the residents of the Township of Conmee, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level.
- q) "Fair Market Value" means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arms-length where fully informed and not under any compulsion to transact.
- r) "Financing Lease Policy" means the policy passed by Council under the authority of the Municipal Act, 2001, S.O. c. 25, section 110.
- s) "Goods and Services" includes: labour, supplies, materials, equipment and services of every kind needed by the Township to conduct business. The use of "and" in the phrase means either "and" or "or", as the context warrants.
- t) "In House Bid" means a bid made by a department and authorized by the manager of that department, submitted in response to a bid solicitation, where the provision of the goods or service will be provided entirely by the employees of the Township of Conmee.
- u) "Lowest Compliant Bid" means the bid that would provide the Township of Conmee with the desired goods or services at the lowest total acquisition cost, meets all the specifications and contains no irregularities requiring automatic rejection.
- v) "Procure" means to acquire by purchase, rental, lease or trade.
- w) "Performance Bond" means a monetary amount to be determined by Council to ensure that the contract is completed as detailed.
- x) "Professional Services" means persons having a specialized knowledge or skill for a defined service requirement including:
- architects, engineers, designers, management and financial consultants
 - firms or individuals having specialized competence in environmental, planning or other disciplines.
- y) "Proposal" means an offer submitted in response to a Request for Proposal, acceptance of which may be subject to further negotiation.

- z) "Relative" shall mean the employee/Council member's spouse or same-sex partner, parent, step-parent or foster parent, a child, step-child or foster child, a grandparent, step-grandparent or foster grandparent, a brother, step-brother or foster brother, or a sister, a step-sister, a foster sister, or brother-in-law or sister-in-law. This policy also includes any other person who is dependent on the employee/Council member for care or assistance.
- aa) "Request for Information" means a written request for details on a vendor's background and its experience with provision of the Goods and Services being offered.
- bb) "Request For Proposal" means a bid solicitation that is used to acquire goods or services, the suitability of which is dependant upon non-price factors and which may result in further negotiation between the parties.
- cc) "Request For Quotations" means an unadvertised Purchase Method in which specific Bidders are approached individually and asked to provide pricing for Goods and Services
- dd) "Services" includes all professional and consulting services, all services in relation to real property or personal property including without limiting the foregoing, the deliver, installation, construction, maintenance, repair, restoration, demolition or removal of personal property and real property and all other services of any nature and kind save and except only services to be delivered by an officer or employee of the Township of Conmee in accordance with the terms of employment.
- ee) "Single Source" means there is more than one source in the open market for the Goods and Services desired, but only one of these is recommended for consideration in a contract.
- ff) "Sole Source" means there is only one source of supply of particular Goods and Services.
- gg) "Tender" means a Purchase Method in which Bidders provide pricing for specific Goods and Services and cannot deviate from the specifications set out in the documents
- hh) "Total Acquisition Cost" or "Total Purchase Cost" means an evaluation of quality and service in the assessment of a bid and the sum of all costs including purchase price, all taxes, warranties, local service costs, live cycle costs, time of completion of delivery, inventory, carrying costs, operating and disposal costs for determining the lowest compliant bid.

ii) "Township" means The Corporation of the Township of Conmee.

jj) "Treasurer" means the Treasurer of the Township of Conmee.

kk) "Vendor of Record" means a vendor of Goods and Services which has been designated by the Province of Ontario as a "vendor of record" with the Province, and is obligated to offer its Goods and Services to Ontario municipalities at the same pricing that it offers them to the Province of Ontario.

2.2 "Includes" and "Including":

The terms "includes" and "including" do not in any way limit or modify any words that precede or follow them.

2.3 Number and Gender:

This by-law is intended to be read with all changes of number or gender adjusted to fit the context of any given situation.

3. General Procurement Policy

The procedures in this By-law shall be followed to award a contract or to recommend to Council that a contract be awarded.

The purchase of goods or services listed in Schedule "A" to this By-law may be made provided that sufficient funds are available and identified in appropriate accounts within Council approved budgets.

4. Purchasing Principles

The principles set out in this Section of the by-law will guide the procurement practices of the Township.

4.1 Budget

This by-law provides direction for the expenditure of funds to complete the programs approved by Council in the annual operating and capital budget.

4.2 Fairness:

The procurement process is to be open, fair, and consistent.

4.3 Considerations in addition to Price:

In making its procurement decisions, the Township considers the total cost of acquisition, maintenance, repair, staff training, operation and disposal in addition to price.

4.4 Competition:

Procurement methods are selected to encourage competitive bidding for the supply of Goods and Services.

4.5 Proof of Performance; References:

The Township will select suppliers who can be expected to provide satisfactory performance. Suppliers will be expected to provide information relating to past, previous contracts, financial and other resources, and references, in order to satisfy the Township that they are able to complete the contract bid.

4.6 Total Costs:

The Township will give full consideration to the Total Project Cost prior to determining the appropriate Purchase Method.

4.7 Environmental Considerations:

The Township will Procure necessary Goods and Services with due regard to the preservation of the natural environment, to encourage vendors to supply goods made by a method resulting in the least damage to the environment and to encourage vendors to supply goods incorporating recycled materials where practicable.

4.8 Asset Management Plan:

All purchasing decisions involving goods which are to be included in the Asset Management Plan will be tracked and included in the annual update of the Asset Management Plan.

5. Restrictions

No contract for goods or services may be divided into two or more parts to avoid the application of the provisions of this By-law.

No contract for services shall be awarded where the services would result in the establishment of an employee-employer relationship.

No employee shall purchase, on behalf of the Township of Conmee, any goods or services except in accordance with this By-law.

Where an employee involved in the award of any contract, either on his or own behalf, or while acting for, by with or through another person, has any pecuniary interest, direct or indirect, in the contract, the employee,

- a) shall immediately disclose the interest to the Manager involved in the award of the contract and shall describe the general nature thereof
- b) shall not take part in the award of the contract
- c) shall not attempt in any way to influence the award of the contract.

An employee has an indirect pecuniary interest in any contract in which the Township of Conmee is concerned if:

- a) the employee or their partner
 - i) is a shareholder in, or a director or senior officer of a corporation that does not offer its securities to the public that has a pecuniary interest in the contract.
 - ii) Has a controlling interest in or is a director or senior officer of a corporation that offers its securities to the public that has a pecuniary interest in the contract.
 - iii) Is a member of an incorporated association or partnership, that has a pecuniary interest in the matter.
 - iv) The employee or their partner is in the employment of a person, unincorporated association or partnership that has a pecuniary interest in the contract.

All Council members shall conduct themselves in accordance with the Municipal Conflict of Interest Act, R.S.O. 1990, c M.50, as amended.

6. Total Acquisition Cost

Where this By-law prescribes dollar limits, the contract amount shall be the estimated total acquisition cost less any rebates.

7. Prescribed Council Approval

Despite any other provisions of this By-law, the following contracts are subject to Council approval:

- a) any contract requiring approval from the Ontario Municipal Board
- b) any contract where the total acquisition cost is greater than the Council approved budget
- c) any contract where an irregularity precludes the award of a contract to the supplier submitting the lowest bid
- d) any contract where a good or service is available from only one source of supply and the total acquisition cost of such good or service exceeds \$25,000 or where a bid solicitation has been restricted to a single source of supply because standardization or compatibility is the overriding consideration.

8. Responsibilities And Authorities

Managers shall be responsible for and shall have authority for all procurement activity and decisions within their Departments and may delegate their authority where appropriate.

9. Procurement Procedures

The Township may establish purchasing procedures consistent with the purposes, goals and objectives set out in this By-law relating to:

- a) the form, content and use of forms, whether electronic or printed, including requisitions, bonds, letters of credit and other forms of guarantee or surety, tender, proposal and other contract documents.
- b) The identification of those goods or services which are more effectively acquired through co-operative purchases
- c) The process to be followed in the issuing, receipt and evaluation of tenders and requests for proposals including the option of submitting documentation, payment or signature by electronic means pursuant to the Electronic Commerce Act, S.O. 2000, c 17 as amended
- d) Any other aspect of process or procedure not specifically provided for in this By-law

10. Request For Expressions Of Interest

Managers may conduct a request for expression of interest for the purposes of determining the availability of suppliers of goods or services and for the purposes of keeping a list of available suppliers.

11. Purchasing Methods

A summary of the purchasing methods are listed in Schedule "B"

11.1 Purchases Not Exceeding One Hundred (\$100) Dollars

The Treasurer shall have authority to establish petty cash funds in such an amount to meet the requirements of a Department for the acquisition of goods or services having an individual total acquisition of \$100 or less.

Purchases made pursuant to this Section shall be made from the competitive marketplace wherever possible.

All petty cash fund disbursements shall be evidenced by vouchers, invoices or sales receipts and shall be available for auditing purposes.

11.2 Purchases Between One Hundred and One Dollars (\$101) and Four Hundred Ninety-Nine Dollars (\$499)

Purchasing requirements for goods or services having an estimated total acquisition cost between \$101 and \$499 shall be allowed, provided the amounts have already been included in the approved budget.

Purchases of up to 50% of the prior year's budget may be made prior to the current year's budget being established.

In appropriate circumstances, the request for proposal or request for tender process may be utilized for the purchase of goods or services within this total acquisition cost range.

11.3 Purchases Between Five Hundred Dollars (\$500) And Nine Thousand Nine Hundred And Ninety-Nine Dollars (\$9,999)

Purchasing requirements for goods or services having an estimated total acquisition cost between \$500 and \$9,999 shall be allowed, provided the amounts have already been included in the approved budget.

In appropriate circumstances, the request for proposal or request for tender process may be utilized for the purchase of goods or services within this total acquisition cost range. Three verbal quotations are desirable but not formally required.

11.4 Purchases Between Ten Thousand Dollars (\$10,000) And Twenty-Nine Thousand Nine Hundred And Ninety-Nine Dollars (\$29,999) Dollars

For the acquisition of Goods and Services with a value of at least \$10,000 but less than \$29,999, the Purchase Method will be Request for Quotations. At least three written quotations will be solicited on behalf of the Municipality by the Department Head. The selection of the vendor shall be made by the Council after consideration of the Department Head's recommendations.

11.5 Purchases Exceeding Thirty Thousand (30,000)

A tender or RFP shall be used for purchases exceeding \$30,000 where all of the following criteria apply:

- a) three or more sources, if available, are considered capable of supplying the requirement
- b) the requirement is adequately defined to permit the evaluation of tenders against clearly state criteria
- c) it is intended that the lowest compliant bid will be accepted without negotiations

- d) Lowest bid or any tender not necessarily accepted.

A request for proposal shall be used where one or more of the criteria for issuing a request for tender cannot be met such as:

- a) owing to the nature of the requirement, 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 rather than on price
- b) it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement
- c) evaluations of proposals shall consider such things as approach, equipment and facilities, experience and qualifications, methodology, past performance, scheduling, price and strategy

12. Guarantee of Contract Execution and Performance

The Township may require that a bid be accompanied by a bid bond or other similar security to guarantee entry into a contract. Unless otherwise specified, in circumstances where a bid bond or other security is required, the refundable deposit requirements for requests for tenders and requests for proposals shall be as follows:

- a) Estimated total acquisition cost - \$25,000 or less – 5%
- b) Estimated total acquisition cost – over \$25,000 – 10%

Prior to commencement of work, the successful bidder may be required to provide the following security in addition to the security referred to above:

- a) a performance bond to guarantee the performance of the contract
- b) a payment bond to guarantee the payment for labour and materials to be supplied in connection with a contract.

The appropriate means to guarantee execution and performance of a contract shall include but not be limited to, certified cheque, bank draft, irrevocable letter of credit, money order or bid bond.

Prior to commencement of work, evidence of insurance coverage satisfactory to the Township must be obtained, ensuring indemnification of the Township from any and all claims, demands, losses, costs or damages resulting from the performance of a bidder's obligations under the contract, and from any other risk determined by Council as requiring coverage.

13. Identical Tenders

If the lowest compliant bids from two or more bidders are identical in total acquisition price or unit price the Township shall enter into negotiations with the bidders who have submitted the identical prices in an attempt to obtain a lesser price.

Such negotiations shall be confidential in their entirety, except for a final total cost agreement.

When negotiations are not successful in breaking the identical tenders, then the successful bidder shall be determined by coin toss. The coin toss shall be performed in the presence of a quorum of Council.

14. Procedures Applicable to all Bid Submissions and Price Quotations

14.1 Submissions and Withdrawals:

The conditions in this section apply to all Bid submissions and price quotations whether they are formal or informal.

- a) Bids must be submitted and received in the manner as specified in the Bid package. No exemptions will be permitted.
- b) Bids received later than the specified closing date and time will be returned to the bidder. In the case of sealed bids, the Bid will be returned to the bidder unopened. No exemptions will be permitted.
- c) A bidder who has already submitted a Bid may submit a further Bid at any time up to the official closing time. The last Bid received will supersede and invalidate all Bids previously received by that bidder unless the process is a Request for Proposals and the bidder is responding with more than one proposal.
- d) A bidder may withdraw a submitted Bid at any time up to the official closing time. The bidder must provide the request to withdraw in writing, by letter bearing the original signature of an authorized signing officer.
- e) All departments must document the receipt of all submissions over \$10,000.00, including the bidder's name, date/time of receipt of Bid and initials of the employee accepting the Bid.

14.2 Rejection:

Bids may be rejected for any of the following reasons:

- a) the Bid was received after the specified closing date and time as specified in the Bid package;

- b) subject to section 4.3, the Bid does not comply with the requirements at time of closing as specified in the Bid package;
- c) subject to section 4.3, the Bid was incomplete, conditional or obscure, or contained additions not called for, erasures, alterations or irregularities of any kind;
- d) subject to section 4.3, the Bid submitted in response to a Tender Call does not meet the specification requirements; and/or
- e) The Bid was submitted by a supplier who has been disqualified from participating in any Bid Request in accordance with this by-law.

14.3 Bid Irregularities:

The process for administering irregularities contained in Bids pertaining to all competitive procurement processes is set out in this section.

The following irregularities are incurable, and result in rejection of the Bid:

- (a) Bid submitted late;
- (b) Bid submitted in an unsealed envelope;
- (c) Bid prepared (in whole or in part) or signed using an erasable medium (such as lead pencil);
- (d) the execution (by the bonding company) of agreements to bond (performance security) are improper in that there is a company corporate seal or signature missing from the agreement to bond;
- (e) the Bid is unsigned (or is improperly signed – for example, without the corporate seal (if required) or by unauthorized persons);
- (f) any required payment is submitted in a manner other than by certified cheque or money order;
- (g) changes to unit prices in a schedule of prices were made (or over-written) without being initialled, and the Bid totals are inconsistent with the prices as changed; or
- (h) addenda issued by the Township, which have financial implications, have not been acknowledged.

The following irregularities may be overlooked if Council considers the irregularity to be trivial or insignificant:

- (a) insufficient financial security (for example, no Bid security or an insufficient Bid bond or agreement to bond);
- (b) all required sections of the Bid document were not completed;
- (c) the Bid contains a qualification, condition or restriction; or
- (d) the Bid was not submitted on the proper or specified form.

The following irregularities may be corrected (or confirmed) by the Bidder within forty-eight (48) hours of the opening of the Bid:

- (a) Bids containing minor and obvious clerical errors;
- (b) the execution (by the bidder) of agreements to bond (performance security) are improper in that there is a company corporate seal or signature missing from the agreement to bond;
- (c) minor changes to the Bid documents which were corrected by the bidder, but the correction or over-write was not initialed;
- (d) changes to unit prices in a schedule of prices were made (or over-written) without being initialed, but the Bid totals are consistent with the prices as changed; or
- (e) mathematical errors were made which are not consistent with the unit prices, and are noted and corrected by the Clerk.

Where an error or irregularity is made that is not referenced in this section, the Council shall determine whether the error is trivial in nature, whether it is incurable, or whether it can be addressed and corrected by the bidder within forty-eight (48) hours.

14.4 General Bid Rejection & Re-issue Rights:

Despite the provisions of this by-law, the Township reserves the right to accept or reject the lowest or any Bid submitted as the result of any Bid Request process, in its absolute discretion. The Township also reserves the right to reissue the Bid document in its original format or modified as best suits the requirements of the Township.

14.5 Negotiation:

Negotiations with one or more suppliers for the supply of goods and/or service would take place when any of the following conditions exist:

- a) due to market conditions, Goods and Services are in short supply;
- b) there is only one source of the Goods and Services;
- c) efforts at breaking identical Bids have previously been unsuccessful and the same Goods and Services are required again;
- d) none of the Bids received were acceptable;
- e) all of the Bids received exceeded the amount budgeted for the purchase;
- f) When two or more identical Bids have been received, Council may negotiate with the two lowest bidders, keeping all negotiations fair and ethical; or
- g) the extension, or reinstatement of, and existing contracts would be more cost effective or beneficial to the Township.

14.6 Standard Forms:

Council may from time to time approve standard forms, including: Bid and performance securities, if any, for purchases by Tender Call, Request for Proposals, Request for Quotations, Single Source, or Emergency purchases, as well as forms of contract for types of purchase including: construction, supplies and installation or service.

14.7 Security:

Bid bonds, performance bonds and other securities including labour and material bonds may be required for purchases. Where they are required, Council shall specify the form and amounts that Council considers appropriate and applicable in each individual circumstance.

14.9 Council Approval Required:

Except as otherwise expressly provided for in this by-law, the Council will award all contracts.

14.10 No Rights Created

This by-law is enacted solely as an internal policy of the Township and its provisions do not confer any rights of any kind whatsoever on any other person including, persons supplying or seeking to supply or asserting claims with respect to the supply of Goods and Services to the Township, whether or not the Township, its Council, officers, agents, or employees, have acted in accordance with this by-law.

14.11 Specifications

The Department Head whose budget provides for the acquisition of Goods and Services shall be responsible, in consultation with the Clerk and any other department as appropriate, for the preparation and approval of all specifications to be used for the acquisition of those Goods and Services.

14.12 Supervision

Council shall exercise general supervision and control over the procurement of all Goods and Services in accordance with this by-law.

14.13 No Personal Purchases

Purchase by the Township of any Goods and Services for personal use by or on behalf of any Township employee or elected official for purposes other than the bona fide requirements of the Township is prohibited.

14.14 Invoice Approval

In addition to other reporting requirements set out in this by-law, signatures of the requisitioning Department Head are required on all invoices prior to payment.

14.15 Clerk's Duties

The Clerk shall:

- a) advertise Tender Calls and Requests for Proposal in accordance with section 17.16 of this by-law;
- b) receive Bids, and stamp them as received, including the date and time of receipt, up to the published deadline;
- d) produce a written record of all Bids; and
- e) keep all Bids in accordance with the Records Retention By-law and other applicable policies or by-laws.

14.16 Advertisement of Bid Requests:

Tender Calls and Requests for Proposal shall be advertised by at least one of the following methods:

- a) posting on a web-service provider allowing for such advertisements at no cost to the Township;
- b) posting on the Township's own website;
- c) posting on public bulletin boards within the Township;
- d) advertising it in the Township's newsletter and/or a local newspaper of Council's choosing;
- e) advertising it in a publication with wider distribution; or
- f) advertising it in a publication directed at an audience likely to be comprised of suppliers for the Goods and Services in question.

In addition to the advertising, the Clerk or Department Head may circulate the Bid Request package directly to individual suppliers who have indicated a desire to receive information in this manner or from whom the Clerk or Department Head has reason to believe a quality Bid will be received.

14.17 Pre-Qualification of Bidders:

Council may authorize the Clerk to compile a list of qualified bidders when:

- a) a large number of Bids is anticipated and the evaluation of Bids would create an undue cost burden to the Township; or
- b) it is desirable to pre-qualify bidders according to established criteria prior to bidding.

Bidders being considered for pre-qualification shall be invited by the Clerk to reply to a Request for Information.

Where bidders are qualified in accordance with this section, the Request for Proposals or the Tender Call will not be publicly advertised, but instead will be

provided to the qualified bidders on the list. Bids will only be accepted from those qualified bidders.

15. Process Details

15.1 Price Agreement:

In order to guarantee a continuous supply of various Goods and Services which are required on a day-to-day basis, while at the same time assuring that the competitive bidding system is followed, a Department Head may recommend a price agreement. These arrangements between the Township and a particular vendor commit the seller to provide Goods and Services at a specific price for a specific period of time. Department Heads can then draw supplies directly from these agreements. Price agreements are governed by the purchasing rules set out in this by-law and must be approved by Council.

15.2 Requests for Quotations: The Request for Quotations is an informal request for prices for Goods and Services.

Quotations can be sought or provided either in written or verbal form, however, once a quotation has been confirmed, that confirmation must be provided in writing.

A Request for Quotations must be undertaken in a manner such that all prospective vendors who are requested to submit a quotation are provided with exactly the same information for the purposes of obtaining the quotation.

15.3 Tender Calls: A Tender Call package must be approved by Council or designated employee prior to being issued or advertised. The package shall contain specifications of the Goods and Services being sought with sufficient detail to allow Bidders to prepare informed Offers. Each Tender Call package must provide a methodology for clarification questions to the Department Head during the period of time when Bids are being accepted. That methodology must provide that responses to the questions are published as addenda to the Tender Call package so that all Bidders have an equal opportunity to understand the specifications. Where necessary, the closing date for receipt of Bids will be extended to allow all Bidders the time to consider the information in the Addenda.

Wherever practicable, the Tender Call package shall provide for consideration of alternatives to approved specifications.

The Tender Call package shall specify a date and time by which sealed Bids will be accepted by the Township. No unsealed Bids will be accepted. No late Bids will be accepted. Bid Deposits and performance security are required. The Bids must be provided without condition or reservation. The award of the contract must be made without negotiation.

The Tender Call package shall specify the method by which the Bids will be opened and the Township will follow that method. The Tender Call package shall specify, where applicable, how errors in Bids will be addressed.

All Bids that are submitted will be compared to the specification and requirements contained in the tender documents. The award of the contract to purchase Goods and Services after a Tender Call is normally to the Lowest Acceptable Bid that meets all of the requirements of the Tender Call and was received from a qualified bidder.

In the case of a tie Bid, the Clerk is to request the tie bidders to submit a final offer. If this is not successful and a tie Bid still occurs, the contract will be awarded by a draw.

15.4 Two Phase Bid Requests: Where detailed specifications are not available a two phase Bid Request may be issued.

The first phase of a two-phase Bid Request is a Request for Proposals to create the specifications for the project, Goods and Services. Bidders are requested to submit proposals for evaluation, either with or without prices.

In the second phase, a Tender Call will be issued based on the specifications that were selected as a result of the first phase.

15.5 Requests for Proposals: A Request for Proposal package must be approved by Council prior to being issued or advertised. The package shall contain a description of the nature of the project and the Goods and Services being sought. Each Request for Proposal package must provide a methodology for clarification questions to the Department Head during the period of time when Bids are being accepted. That methodology must provide that responses to the questions are published as addenda to the Request for Proposals package so that all Bidders have an equal opportunity to understand the specifications. Where necessary, the closing date for receipt of Bids will be extended to allow all Bidders the time to consider the information in the Addenda.

The Request for Proposals package shall specify a date and time by which Bids will be accepted by the Township. No late Bids will be accepted. The Request for Proposals package shall also specify the criteria that the Council will consider in making its purchasing decision, and indicate whether or not bidders will have an opportunity to meet with the selection team to make a presentation, respond to questions, or undertake price negotiations. In accordance with the Municipal Freedom of Information and Protection of Privacy Act, proprietary and commercial information contained in Bids is confidential. Bids are not opened in public and are not available to the general public without the express authority of the person submitting the Bid.

Proposals must be opened in the presence of at least two persons.

Negotiations may be conducted with bidders after the date for the receipt of Proposals provided that the negotiations are conducted in a manner which:

- a) where there is more than one acceptable Proposal, affords equitable treatment to each acceptable bidder;
- b) where there is only one acceptable Proposal, provides an opportunity for discussion and revision of the proposal; and
- c) prevents the disclosure of the content of the discussion or negotiations from one Bidder to another Bidder.

Although the opening of Proposals is not public, a list of the submissions will be available to the public and the bidders on request.

An award of a contract based upon a Request for Proposal will be made to the supplier whose Proposal is determined to be the most advantageous to the Township based upon criteria for evaluation set out in the Request for Proposal package and equitably applied to all Proposals.

16. Sole Source and Single Source Purchases

16.1 Single Source Purchases: A Single Source Purchase may be made where:

- a) the compatibility of a purchase with existing equipment, facilities or service is a paramount consideration;
- b) where an item is purchased for testing or trial use;
- c) where the Township purchases supplies for resale;
- d) where the Township has a rental contract with a purchase option and such purchase option could be beneficial to the Township;
- e) where items are being offered for sale by tender, auction or negotiation, Council may authorize the submission of a Bid or the conduct of negotiations where the Council determines the purchase to be clearly in the best interest of the Township; or
- f) for matters involving security, police matters, or confidential issues, a purchase may be made in a manner that protects the confidentiality of the contractor or the Township.

16.2 Sole Source Purchases: A Sole Source purchase may be made whenever applicable.

16.3 Approval: All Single Source and Sole Source purchases must be approved by Council.

17. Exemptions

17.1 Exempt Vendors: A competitive Bid process shall not be required for Goods and Services provided by any of the following, when such Goods and Services are not available elsewhere:

- a) utilities;
- b) government agencies;
- c) crown corporations;
- d) Vendors of Record; and
- e) any other vendors or classes of vendors as approved by Council.

17.2 Special Conditions: A competitive Bid process shall not be required to address a condition where lack of supplies or services may adversely affect the functioning of civic government, threaten public or private property or the environment, or jeopardize the health or safety of the public.

17.3 Interim Arrangements: A competitive Bid process shall not be required to address interim contract arrangements following the expiration or breach of a contract; or the receipt of unacceptable or uncompetitive Bids.

17.4 Emergencies: A competitive Bid process shall not be required to address Emergency circumstances. In those cases, purchases are completed using the most expedient method that takes economy into consideration. However, in each case the authorizing person shall submit a report to Council at its next meeting explaining the circumstances giving rise to the Emergency and outlining the purchases made.

17.5 Exemptions Approved by Council: Upon the request of a Department Head through a written report giving the rationale for the request, Council may authorize exemption from any or all the purchasing methods outlined in this by-law. Where an authorization is provided, it shall be granted by resolution.

17.6 Co-operative Purchasing: The Township may participate with other units of government, their agencies or public authorities in co-operative purchase ventures when the best interest of the Township will be served. Where such participation is at variance with this by-law, Council shall first authorize any participation.

The Clerk may direct negotiations for the purpose of cooperative buying procedures with other municipal bodies and agencies as may be deemed advantageous to the Township.

- 17.7 Payment Authorization Prior to Budget Approval: Between the last regular meeting of Council in any year and the adoption of estimates for the next year, the Clerk is authorized to pay the accounts of any ordinary business transactions of the Township that are required to maintain services. This includes the payment of accounts or previously approved capital items and projects.

After the adoption of estimates, the Clerk is authorized to pay the accounts approved by the appropriate Department Head and to pay contract accounts upon receipt of evidence of value received.

18. Supplier Performance

- 18.1 Disqualification Possible: Suppliers may be subject to disqualification if there is sufficient evidence of failure to meet the standards specified by the Township, or in the other circumstances outlined in this Section.
- 18.2 Performance Files: Administration will maintain supplier performance files when there are performance concerns.
- 18.3 Evaluation: Suppliers may be evaluated based on competitive price quality of a product, contract adherence and performance, after sales service and replies to Bid Requests.
- 18.4 Notice when Considering Disqualification: Upon reasonable notice in writing to the supplier involved, and after a reasonable opportunity for response and/or improvement, a supplier can be disqualified from submitting Bids for a period not exceeding three years.
- 18.5 Disqualification: Suppliers may be disqualified when any one or more of the following occurs:
- a) a person with significant management responsibilities relating to the supplier is convicted of a criminal offense or a provincial offense that casts doubt upon the honesty or integrity of that person;
 - b) an indication of lack of business integrity or honesty which directly affects the responsibility of the supplier;
 - c) a serious breach of contract indicating unwillingness to perform a contract in accordance with its terms, conditions or specifications; and/or

- d) a pattern of unsatisfactory performance of one or more contracts in accordance with its terms, conditions or specifications.

18.6 Notice to Disqualified Supplier: A written decision shall be issued to the person disqualified, setting out the reasons for disqualification, to the usual business address of that person as shown in the records of the Township.

18.7 Authority: A decision to disqualify a supplier under this section can only be determined by the Council.

19. ACCESS TO INFORMATION

The disclosure of information received relevant to the issue of bid solicitations or the awarding of contracts shall be in accordance with the Municipal Freedom of Information and Protection of Privacy Act.

20. EFFECTIVE DATE

This By-law shall come into force and effect on the date of passing thereof.

21. REPEAL

This By-law repeals any existing purchasing by-laws or policies of the Township of Conmee.

Read a first and second time this 23rd day of March, 2021

Read a third time and finally passed this 23rd day of March, 2021

THE CORPORATION OF THE
TOWNSHIP OF CONMEE



Mayor Kevin Holland



Clerk Shara Lavallee

SCHEDULE "A"

To By-law No. XXX

The purchasing methods described in this by-law do not apply to the following goods and services:

- a) registration and tuition fees for conferences, conventions, courses and seminars
- b) magazines, books, periodicals
- c) memberships
- d) advances
- e) meal allowances
- f) travel and entertainment
- g) payroll deductions remittances
- h) medical
- i) licences
- j) debentures
- k) grants
- l) damage claims
- m) petty cash replenishment
- n) tax remittances
- o) committee fees
- p) legal fees
- q) funeral or burial expenses
- r) advertising services including radio, television, newspaper
- s) veterinary expenses

SCHEDULE "B"

To By-law No. XXX

PURCHASING METHODS

<u>Procedure</u>	<u>Cost of Goods or Service</u>
Approved invoice or Petty Cash	\$499 or less
Agreement	\$100 to \$9,999
Agreement, Request for Quotations	\$10,000 to \$29,999
Agreement, Request for Tender or Request for Proposal	\$30,000 or more

Costs of goods or services shall include HST.

SCHEDULE "C" TO BY-LAW NO. XX

<u>IRREGULARITY</u>	<u>RESPONSE</u>
Late Bids	Automatic rejection and not opened or read publicly
Unsealed Envelopes	Automatic rejection
Insufficient Financial Security (No Bid Security or agreement to bond or insufficient Bid bond or agreement to bond)	Automatic rejection
Bids completed and/or signed in erasable medium	Automatic rejection
All required sections of Bid documents not completed	Automatic rejection unless, in the consensual opinion of the Council or designate, the incomplete nature is trivial or not significant
Qualified Bids (Bids qualified or restricted by an attached statement	Automatic rejection unless, in the consensual opinion of the Council or designate, the incomplete nature is trivial or not significant
Bids received on documents other than those provided or specified by Council	Automatic rejection
Bids Containing Minor Obvious Clerical Errors	48 hours to correct and initial errors
Failure to execute Agreement to Bond (Sureties Consent) or Bonding company corporate seal or signature missing from Agreement to Bond	Automatic rejection
Failure to execute Bid Bond by Bidder and Bonding Company	Automatic rejection
(if requested) Corporate Seal of the Bidder and Bonding Company Missing	48 hours to correct

(if requested) Corporate Seal or signature missing: signatory's authority to bind the corporation or signature missing Corporate Seal and signature missing; signatory's authority to bind the corporation and signature missing Erasures, Overwriting or Strike-Outs which are not initialled	48 hours to rectify situation Automatic rejection Automatic rejection
Unit prices in the Schedule of Prices have been changed but not initialled and the Contract totals are inconsistent with the price as changed	48 hours to initial. The determination of what constitutes trivial or insignificant un-initialled changes shall be made in the consensual opinion of the Council or designate, the incomplete nature is trivial or not significant
Mathematical errors which are not consistent with unit prices	48 hours to initial corrections as made by the Supplies and Services Division Automatic rejection
Documents, in which all necessary Addenda, which have financial implication, have not been acknowledged	
Any other irregularities	The Council or designate, acting in consensus shall have authority to waive other irregularities or grant 48 hours to initial such other irregularities, which they jointly consider to be minor.