THE CORPORATION OF THE TOWNSHIP OF LARDER LAKE

BY-LAW NO 1298 – 10 As Amended

BEING a By-law to establish a policy to provide for fair, transparent and accountable purchasing and tendering procedures and to maximize savings for taxpayers as well as to protect Council, vendors and staff involved in the process by providing clear direction and accountabilities.

WHEREAS the Municipal Act, 2001, section 224 (b) requires the role of Council to include the development and evaluation of the policies and programs of the Township;

AND WHEREAS the Municipal Act, 2001, section 224 (d) requires Council to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of the Council;

AND WHEREAS the Municipal Act, 2001, section 224 (d.1) requires Council to ensure the accountability and transparency of the operations of the Township, including the activities of the Senior Management of the Township;

AND WHEREAS the Municipal Act, 2001, section 270 (1) (3) requires a municipality to adopt and maintain a policy with respect to the procurement of goods and Services;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF LARDER LAKE HEREBY ENACTS AS FOLLOWS:

1. **THAT the Procurement Policy And Procedures** for the Township of Larder Lake be hereby adopted as Schedule "A" attached and forming part of this by-law.
2. **THAT** this By-law comes into force and effect on the day of passing thereof.
3. **THAT** all other By-laws and resolutions, or parts thereto, contrary hereto or inconsistent herewith, be and the same are hereby repealed.

READ A FIRST, SECOND AND THIRD TIME IN OPEN COUNCIL, ENACTED AND PASSED THIS 10th DAY OF June, 2010.

_____

Reeve

_____

Clerk-Treasurer

Procurement Policy
And
Procedures

Schedule A

Date

June 10th, 2010

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Procurement Policy

1.0 PURPOSE

1.1 PURPOSE OF PURCHASING POLICY

The Council of the Corporation of Larder Lake has deemed it desirable to have a by-law to provide for fair, transparent and accountable purchasing and tendering procedures and to maximize savings for taxpayers as well as to protect Council, vendors and staff involved in the process by providing clear direction and accountabilities. This policy will be reviewed every five (5) years or earlier, to evaluate its effectiveness.

1.2 LEGISLATIVE AUTHORITY

The Municipal Act, 2001, Part VI, Section 271, as amended states that a municipality and a local board shall adopt policies with respect to its procurement of goods and services, including policies with respect to:

a) the types of procurement processes that shall be used;
b) the goals to be achieved by using each type of procurement process;
c) the circumstances under which each type of procurement process shall be used;
d) the circumstances under which a tendering process is not required;
e) the circumstances under which in-house bids will be encouraged as part of tendering process;
f) how the integrity of each procurement process will be maintained;
g) how the interests of the municipality or local board, as the case may be, the public and persons participating in a procurement process will be protected;
h) how and when the procurement processes will be reviewed to evaluate their effectiveness; and
i) any other prescribed matter.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF LARDER LAKE ENACTS AS FOLLOWS;

2.0 DEFINITIONS

2.1 For the purposes of this policy,

a) **Acquisition** means the process used for obtaining goods and services

b) **Agreement** means a legal document that binds the Township and all other parties, subject to the provisions of the contract.

c) **Approval** means authorization to proceed with the purchase or disposal of goods and services.

d) **Authority** means the legal right to conduct the tasks outlined in the by-law as directed by Council. Authorized purchases are those that have prior approval of Council either through resolution or through the annual budget.

e) **Bid** means an offer or submission received in response to a request for the purchase of goods and services issued by the Town.

f) **Bid Deposit** means a financial guarantee to ensure the successful bidder will enter into an agreement.

g) **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 Town.

h) **Bid Irregularity** means a deviation between the requirements (terms, conditions, specifications, special arrangements) of a bid request and the information provided in a bid response (see Schedule C)

i) **Bid Request** means a written request for bids or a solicitation, which may be in the form of a Request for Quotation, Request for Tender or Request for Proposal.

j) **Certificate of Clearance from the W.S.I.B.** means a certificate issued by an authorized official of the W.S. I.B certifying that the Board waives its rights under subsection 9(3) of the Workers' Compensation Act R.S.O. 1990, Chapter W.11.

k) **Consultant** means a person or firm, who by virtue of a particular expertise, is hired by the Township to undertake a specific task or assignment that may include designing specifications and preparing plans or programs.

l) **Contract** means any formal legal agreement for the supply of goods, services, equipment or construction.

m) **Contract Record** is a document which outlines the terms and conditions of the agreement.

n) **Contract Order** means an agreement between the Township and a supplier under which the supplier agrees to sell a product or service to the Township for an agreed period of time and at an agreed pricing arrangement.

o) **Conflict of Interest** refers to a situation in which private interests or personal considerations may affect an employee's judgment in acting in the best interest of the Township. Also, it includes the use of an employee's position, confidential information or Township time, material, or facilities for private gain or advancement or the expectation of private gain or advancement. A conflict may occur when an interest benefits any member of the employee's family, friends, or business associates.

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

q) **Council** means the Council for the Township of Larder Lake.

r) **"Declaration respecting Workers' Compensation Act R.S.O. 1990/Corporation Tax Act"** means a declaration that the bidder has paid all assessments or compensation payable and has otherwise complied with all requirements of the W.S.I.B and that the bidder has paid all taxes and/or penalties imposed on it pursuant to the Corporation Tax Act, R.S.O. 1990.

s) **Disposal** means the removal of materials owned by the Township by sale, trade-in, auction, alternative use, gift, or destruction which is deemed surplus.

t) **Emergency** means a situation where the purchase of goods and services requires immediate action to prevent or correct dangerous or potentially dangerous safety conditions, further damage, to restore minimum service or endure the safety of the public

u) **Execute** means to legally bind the Township to the terms and conditions defined within the agreement.

v) **Expanded Works** means an approved construction project in which an unexpected problem arises during construction, which does not expand the scope of the project but is necessary to deliver the original approved work.

w) **Expression of Interest** means a situation where vendors are solicited by the Town to advise the Town of their ability or desire to undertake Town requirements.

x) **Goods and/or Services** includes supplies, equipment, property insurance, maintenance, professional and consulting services and service contracts not otherwise provided for.

y) **Irrevocable letter of credit** means an irrevocable letter on the financial institution's standard form containing a request that the party to whom it is addressed pay the bearer or a person named herein money as a result of failure to perform or fulfill all the covenants, undertakings, terms, conditions and agreements contained in a contract.

z) **Labour and Material Bond** means a bond issued by a surety company on the Township's standard Form of Bond to ensure that the contractor will pay his/her suppliers and thereby protects the Township against items which might be granted to suppliers should the contractor not make proper payments.

aa) **Performance Bond** means a bond issued by a surety company on the Township's standard Form of Bond executed in connection with the contract and which secures the performance and fulfillment of the undertakings, terms, conditions and agreement contained in the contract.

bb) **Proposal** means a submission received in response to a request for proposals, acceptance of which may be subject to further negotiation.

cc) **Quotation** means a request for prices on specific goods and/or services from selected vendors, which are submitted verbally, in writing or transmitted by fax as specified in the Request for Quotation.

dd) **Request for Expressions of Interest** means a request made by the Township for the purpose of compiling a list of person, firms or corporations who may be interested in providing goods, services or construction to the Township.

ee) **Request for Information** is used prior to issuing a tender call as a general market research tool to determine what products and services are available, to scope out business requirements, and/or estimate project costs.

ff) **Request for Pre-Qualification** means a request for the submission of information from potential bidders, including the experience, financial strength, education, background and personnel of persons, firms, or corporations who may qualify to supply goods, services or construction to the Township.

gg) **Request for Proposal** means a process where a need is identified, but the method by which it will be achieved is unknown at the outset. This process allows vendors to propose solutions or methods to arrive at the desired result.

hh) **Request for Quotations** means a request for quotations made pursuant to this by-law.

ii) **Request for Tenders** means a request for Tenders made pursuant to this by-law.

jj) **Responsive** means that a bid has been compiled in all material respects with the requirements set out in the call for bids documentation.

kk) **Sealed Bid** means a formal sealed response received as a part of a quotation, tender or proposal.

ll) **Services** means the services to be provided under a contract and includes consulting and professional services.

mm) **Sole Source Purchase** means a purchase made under section 9 of this by-law

nn) **Standing Agreement** means an agreement between the Township and a contractor resulting from a call for bids, under which the contractor agrees to provide goods, services or construction, as and when needed by the Township, at a predetermined price, for a pre-determined period of time, upon pre-determined terms and conditions.

oo) **Supplier** means any individual or organization providing goods or services to the Township including but not limited to contractors, consultants, vendors, service organizations etc.

pp) **Tender** means a sealed bid which contains an offer in writing to execute some specified services, or to supply certain specified goods, at a certain price, in response to a publicly advertised request for bids.

qq**)** **Time Sensitive Works** means work for which the timing to initiate and/or complete the purchase is paramount but the time available to follow normal procedures is insufficient.

rr) **Total Cost** means the contract cost for the full term of the contract, including all applicable taxes, but exclusive any rebates.

ss) **Township** means the Corporation of the Township of Larder Lake.

3.0 APPLICATION

3.1 This by-law shall apply to the purchase of Goods, Services or Construction for the purposes of all of the Township departments.

3.2 This by-law shall not apply to the acquisition or disposal of any real property or fixtures or to any lease, right or permission relating to the use or occupation of real property.

4.0 PROCUREMENT RESPONSIBILITIES

4.1 **Expenditure Authorization**

Council for the Township of Larder Lake has ultimate authority for all expenditures. Council delegates this authority by the authorization of budgets or by specific resolution. Finance cannot pay for any item that has not been authorized by Council through budget appropriation or specific resolution. This purchasing policy provides guidelines outlining how spending authority is to be used.

4.2 **Management Authorization and Responsibilities**

The Clerk-Treasurer shall be responsible for approval of accounts within the approved budget for such departments or any amendment to same as approved by Council. Unspecified capital expenditures in the annual estimates require prior Council approval by resolution.

Resolutions approving budget amendments, capital expenditures or special appropriations shall contain purpose of expenditure, cost estimates or expenditure limitation, and the fund in which an appropriation has been provided. All staff reports recommending such resolutions shall contain the Clerk-Treasurer's endorsement.

The Clerk-Treasurer may appoint a designate to exercise any or all responsibilities assigned by this policy.

The Clerk-Treasurer or a designate shall be responsible for:

a) providing procurement advice to those responsible to prepare calls for bids within the Township;

b) ensuring that calls for bids issued by the Township generally comply with the requirements of this by-law;

c) developing co-operative purchasing plans with other municipalities, boards, agencies, commissions, or private sector entities where such plans are determined to be in the best interest of the Township;

d) standardizing the procurement procedures within the Township;

4.3 **General Conditions**

a) No employee or elected official shall purchase or offer to purchase, on behalf of the Town, any goods and services, except in accordance with this policy.

b) Elected Officials shall not approve nor acquire any goods and services.

c) A vendor's name may be removed from the list of bidders list for a period of up to two (2) years on the basis of documented poor performance, non-performance, or conflict of interest. The Clerk-Treasurer will provide a written notice of the decision to the vendor.

d) When using the privilege clause which reads in part "the lowest or any tender may not necessarily be accepted", the specific reasons must be stated why the bids may not be accepted.

e) Any employee who intentionally and knowingly acquires or disposes of any goods and services for the Town in contravention of any section of this Policy, as amended from time to time, shall be subject to disciplinary actions in accordance with Town Policy

f) The Clerk-Treasurer will reject all purchases for services where the services could result in the establishment of an employee-employer relationship.

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

h) shall immediately disclose the interest to the Clerk-Treasurer.

i) shall not take part in the Award of the Contract; and

j) shall not attempt in any way to influence the Award of the Contract.

k) All procurement undertaken by the Township shall be undertaken in accordance with the Township's Code of Conduct and all individuals involved in the procurement process shall conduct themselves in accordance with the Municipal Conflict of Interest Act, R.S.O. 1990, c M.50, as amended.

l) Any form of communication, lobbying or any other attempt at influencing the results of the procurement processes by a Bidder with an employee and/or Councilor of the Township will result in the disqualification of that Bidder.

m) Where the Township is pursuing a claim against a Supplier in contract or tort, or where a Supplier is pursuing a similar claim against the Township, the Supplier shall not be eligible to respond to any Call for Bids for Goods, Services or Construction, unless the Municipal Council and the Clerk-Treasurer determines that it is in the best interests of the Township to do so.

5.0 REQUIREMENT FOR APPROVED FUNDS

5.1 Net Departmental expenditures shall be authorized by Council each year as part of either the Operating or Capital Budget process. Pending Council's approval of proposed budgetary estimates, Directors may be authorized to spend up to 50% of the previous year's approved Operating Budget. Directors are not authorized to overrun net departmental operating budgets, except in accordance with this Policy.

5.2 Sufficient funds must be available for each contract in the appropriate accounts within the Council approved operating budget prior to such contract being awarded by the Town.

5.3 Where goods and services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a contract is subject to:

a) the identification and availability of sufficient funds in appropriate accounts for the current year within Council approved estimates; and

b) the opinion of service area Director(s) that the requirement for the goods or services will continue to exist in subsequent years and, in the opinion of the Treasurer, the required funding can reasonably be expected to be made available.

5.4 The Director shall co-ordinate, with Purchasing Staff, all leasing requirements including term capitalization rate and lease vs. buy (or other) analysis. Purchasing Staff shall ensure that all lease commitments comply with the *Municipal Act, 2001* as amended and regulations made there under.

5.5 Where this policy prescribes financial limits on contract that may be awarded under the authority of a Director, or provides for financial limits on contracts required to be reported to Council, for the purpose of determining whether a

contract falls within these prescribed limits, the contract amount shall be the sum of:

a) all costs to be paid to the supplier under the contract, excluding all taxes less any rebates.

5.6 If the Town Elected Officials provide assistance to any Committee or any subsidiary of the Town to purchase goods and services, such assistance shall only be provided if such committee or subsidiary acquires the goods and services in accordance with the requirements set out in this Policy.

6.0 PROCUREMENT PROCEDURES

6.1 Petty Cash

The Clerk-Treasurer shall have authority to establish **petty cash** funds in such an amount to meet the requirements for the acquisition of goods or services having an individual total value of **$200** or less.

Purchases made pursuant to this Section shall be made from the competitive market place wherever possible and may be made by using an approved invoice.

All petty cash fund disbursements shall be evidenced by vouchers and shall be available for auditing purposes through the Clerk-Treasurer.

6.2 Purchase Cards

Purchase cards are the preferred method to purchase goods and services for amounts less than $5,000.00. The Township of Larder Lake's size does not warrant the use of a requisition and purchase order system and consequently has been replaced by the use of purchase cards. The use of a purchase order system did not warrant the cost of maintaining such a system.

Each personnel staff member has a purchasing card to expedite small purchases. The purchasing limits for each staff member ranges from $1,000.00 to $5,000.00 in accordance with the Purchase Card Policy.

Where the requirement for goods and services has an estimated value greater than $500.00, excluding taxes and freight, the supervisor is empowered to make the purchase from such suppliers and upon such terms and conditions that are best for the Township. However, the staff member is required to solicit two (2) competitive written quotations, when possible, for all items over $500.00 and kept on file for the Clerk-Treasurer to review.

The purchase of goods and services with a purchase card the staff member must sign and certify an invoice indicating that goods have been purchased.

6.3 Pre-qualification

6.3.1 Request for Expressions of Interest

The Clerk-Treasurer or designate 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.
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 Township. A Request For Expressions Of Interest may be conducted as a precondition to another procurement procedure set out in this by-law.

6.3.2 Request for Pre-qualification

The Clerk-Treasurer or designate 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:

(a) experience of similar work;
(b) references provided from customers in respect of similar work;
(c) verification of applicable licenses and certificates, if applicable; and
(d) financial capability of the Bidder.

The selection of potential Bidders following a Request For Pre- Qualification shall not create any Contractual obligation between the Township and any pre-qualified Bidder.

6.4 **Request for Quotations**

Request for Quotation procedures shall be used where:

a) the item is greater than $1,000 but less than $15,000;
b) the requirement can be fully defined; and
c) best value for the Town can be achieved by an award selection made on the basis of the lowest bid that meets specifications.

Informal Quotations

Where the requirement for goods and services for estimated expenditures is greater than $1,000 but less than $15,000 excluding taxes and freight, the staff must obtain a minimum of two written quotations whenever possible. Formal sealed quotations will be called when the Clerk-Treasurer deems it appropriate. Sealed quotations will be opened in the presence of the Clerk-Treasurer or designate and at least one other employee of the Township.

The requirement to obtain two quotations must be complied with whether the purchase card is used or not.

Formal Quotations

Staff shall be authorized to make formal quotation purchases for goods and services for estimated expenditures exceeding $5,000.00 and less than $15,000.00 without requesting and obtaining sealed tenders for the goods and services unless specifically authorized to do so by a resolution of Council for a particular transaction. At least three (3) bids must be obtained whenever possible.

Where information supplied indicates that three quotations cannot be obtained for goods and services, excluding taxes and freight, justification for and approval to make the purchase is required from Council.

When the preferred quotation exceeds the approved budget appropriation by 10% of the total budget, the Clerk-Treasurer shall submit a report to Council for direction.

The Township may in its discretion, issue a Request For Tenders or a Request For Proposals for any purchase below fifteen thousand dollars ($15,000)

Where the specifications for the Goods, Services or Construction proposed to be purchased are fixed and they are not open to interpretation or confusion, the Township may orally request that suppliers submit their Quotation in writing.

Where the specifications for the Goods, Services or Construction proposed to be purchased are highly technical and they may be subject to interpretation or confusion, the Township shall issue a Request For Quotations in writing describing the details of the proposed specifications, and requiring that Suppliers submit their Quotation in writing. For clarity, a Request For Quotations document shall not be required to reflect the formal requirements normally associated with a Request For Tenders Document.

In any circumstance where the lowest Quotation exceeds fifteen thousand dollars ($15,000), provided the proposed purchase comes within the approved budget appropriations of the Township, the proposed purchase shall be subject to the approval of the Clerk-Treasurer and Municipal Council.

6.5 **Tender Purchases**

Staff shall not order goods or services exceeding $15,000.00 without requesting and obtaining sealed tenders for the goods and services unless specifically authorized to do so by a resolution of Council for a particular transaction. At least three (3) bids must be obtain whenever possible.

Where a Request For Tenders or a Request For Proposals is not issued, a minimum of three (3) Quotations shall be requested, which may be received verbally or in writing.

Notwithstanding the above, adherence to this purchasing policy is not required with for the items listed below, or to a transaction specifically authorized by resolution of Council to be exempt from this tendering policy.

a) Purchase of replacement parts where the original equipment manufacturer (OEM) is the sole provider of that equipment (i.e transmission for Champion road grader)

b) Purchases for consulting services for a program where services have been awarded to a consulting firm on an on-going basis when clearly identified in the budget.

c) Single source supply.

d) There is a time-sensitive works situation, as defined in Section 2 above

6.6 **Requests for Proposals**

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 fulfill the Township's requirements.

Council shall award the contract in accordance with the recommendation made to it by the Bid Evaluation Committee or person responsible for the purchase of Goods, Services or Construction, provided that Council 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 by-law.

This method of acquisition can be used for any dollar value and involves the solicitation of proposals when the requirements for goods and/or services cannot be definitely specified, the requirements of the Town are best described in a general performance specification, and the innovative solution are sought. Depending on its terms, the process may involve negotiations subsequent to the submission of proposals on any or all of the specifications, contract and prices.

Staff shall maintain a list of suggested evaluation criteria for assistance in formulating an evaluation-scoring scheme using a standard request for proposal that includes factors such as qualification and experience, strategy, approach, methodology, scheduling, and past performance, facilities, and equipment.

Staff shall identify appropriate criteria from a list but are not limited to the standard criteria from the list.

Requests for proposals are not formally opened in public nor is it necessary to disclose prices or terms at the time of submission.

If only one proposal is received, the Clerk-Treasurer, in consultation with Council, has the option of not opening the bid and closing the call for proposal.

A Request For Tenders or Request For Proposals shall comply with the following process:

(a) the scope of the Goods, Services or Construction shall be set out in the Call For Bids documentation;
(b) the form of the Call For Bids shall, to the extent possible, use standardized documentation;
(c) the Call For Bids documentation shall be circulated and advertised in as wide and extensive manner as will ensure the best, most comprehensive and most competitive response to the Call For Bids;
(d) evaluation criteria and weightings shall be established prior to the Call For Bids and the Call For Bids documentation shall clearly specify how each of the applicable criteria shall be utilized in evaluating the Bids;
(e) Bids shall be publicly opened on the specified date, at the specified time;
(f) all Bid amounts shall be recorded;
(g) all Bids shall be fairly and completely evaluated on the basis of an open, fair and transparent process, as the circumstances will reasonably allow;
(h) the evaluation of each Bid shall be recorded using a standardized form of evaluation record;
(i) the evaluation record shall be stored and shall only be destroyed in accordance with the Township's records retention by-law and procedures; and
(j) any irregularities shall be referred to the Bid Evaluation Committee.

6.7 ***Request For Tenders***

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

(a) two or more sources are considered capable of supplying the Goods, Services or Construction;
(b) the Goods, Services or Construction are clearly ascertainable and permit the evaluation of Bids against applicable specifications;
(c) the market conditions are such that Bids can be submitted on a competitive pricing basis; and
(d) it is intended that the lowest cost Responsive Bid shall be accepted without negotiation.

Council shall Award the Contract in accordance with the recommendation made to it by the Bid Evaluation Committee or person responsible for the purchase of Goods, Services or Construction, provided that Council 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 by-law.

6.9 ***Standing Agreements***

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.

The Township shall have no obligation to any Supplier to order any Goods, Services or Construction under a Standing Agreement.

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

The Clerk-Treasurer or Department Head shall annually provide a list of Standing Agreements to the Municipal Council for review.

7.0 EXCEPTIONS TO METHODS OF PROCUREMENT

7.1 Volatile Market Conditions

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

7.2 Sole Source Procurement

Purchase by negotiation may be adopted, if in the judgment of the Township any of the following conditions apply:

a) Goods and services are reasonably available from only one source by reason of the scarcity of supply in the market or the existence of exclusive rights held by any supplier or the need for compatibility with goods and services previously acquired and there is no reasonable alternatives or substitutes and specific standards that may be adopted by Council.

b) The required goods and services will be additional to similar goods and services being supplied under an existing contract. There is documented evidence that the extension or reinstatement of an existing contract would prove most cost effective or beneficial (to a maximum of 10% of the original contract)

c) An attempt to purchase the required goods and services has been made in good faith using a method other than Sole Sourcing under Section 5.1 through 5.5 of this policy which has failed to identify a successful supplier and it is not reasonable or desirable that a further attempt to purchase the goods and services be made using a method other than Sole Sourcing.

d) After the RFP process has closed, it may be necessary for discussion to clarify and/or make significant revision(s) to the initially defined requirements of a call for quotations or proposals.

e) When only one bid/proposal is received through the procurement process and it is impractical to recall the requirements of the call for quotations/proposals.

f) The required goods and services are to be supplied by a particular vendor or supplier having special knowledge, skills, expertise or experience.

g) The goods and services are required as a result of an emergency, which would not reasonably permit the use of a method other than Sole Sourcing.

h) There is a time-sensitive works situation, as defined in Section 2 above.

7.3 **Emergency Procurement**

Notwithstanding the provisions of this policy, the following shall only apply in case of an emergency, when an event occurs that is determined by Clerk-Treasurer to be:

a) A threat to public health
b) The maintenance of essential Town services
c) The welfare of persons or of public property or
d) The security of the Town's interests and the occurrence requires the immediate delivery of goods or services and time does not permit for competitive bids.

Staff shall secure by the most open market procedure at the lowest obtainable price, any goods and services required.

An information report shall be submitted to Council explaining the actions taken and the reason(s) therefore.

7.4 **Unsolicited proposals**

The Clerk-Treasurer and his/her staff shall review unsolicited proposals received by the Town. Any procurement activity resulting from the receipt of an unsolicited proposal shall comply with the provisions of this policy. A contract resulting from an unsolicited proposal shall be awarded on a non-competitive basis only when the procurement requirements comply with the non-competitive procurement policies and procedures.

7.5 **In-House Bids**

In-House Bids may be used for the procurement of goods, services or construction in circumstances where the Clerk-Treasurer considers it appropriate to do so.

8.0 ADVERTISING

Where effective in the opinion of the Clerk-Treasurer, information regarding the bid document shall be advertised in the local newspaper and/or applications necessary to comply with all existing statutory regulations

9.0 ACQUISTION OF GOODS OR SERVICES FROM OTHER GOVERNMENT BODIES

The staff may acquire any goods or services from a federal, provincial or municipal body, ministry, agency, board, corporation or authority when similar goods and services are not available. The staff may take advantage of these opportunities if it is in the best interest of the Town.

10.0 BID AND CONTRACT ADMINISTRATION

10.1 **Submission of Bids**

The following conditions apply to all bid submissions whether they are formal or informal:

a) Bid documents must be submitted, to the Clerk-Treasurer, and received in the manner as specified in the bid document. No exemptions will be permitted.

b) The closing time for receiving tender bids and opening of bids shall be specified in the bid documents.

c) Bids received by the Town location 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 unopened to the bidder. No exemptions will be permitted.

d) 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.

e) A bidder may withdraw a submitted bid at any time up to the official closing time by letter bearing their signature.

f) A tender requiring an appropriate bid deposit shall be void if such security is not received in the manner specified in Section 8.5 and if no other bid is valid, Council shall direct what action is to be taken with respect to the recalling of tenders

g) All bidders may be requested to supply a list of all subcontractors to be employed on a project. Any changes to the list of subcontractors or addition thereto must be approved by the project Manager responsible for the project.

h) Staff must document the receipt of all submissions including the bidders name, date, and time of receipt of bid and initials of the employee accepting the bid.

10.2 Bids may be rejected for any of the following reasons:

a) Bid was received after the specified closing date and time as specified in the bid documents. No exceptions.

b) Bid does not comply with the requirements at time of closing as specified in the bid document. No exceptions.

c) Bids which are incomplete, conditional, or obscure, or which contain additions not called for, erasures, alternations or irregularities of any kind.

d) Does not meet specification requirements.

10.3 No Acceptable Bid

Where bids are received in response to a bid solicitation but exceed budget, are not responsive to the requirements, or do not represent fair market value, a revised solicitation shall be issued in an effort to obtain an acceptable bid unless Council waives the need for a revised bid solicitation.

Where Council waives the need for a revised bid solicitation management will enter into negotiations with the lowest responsive bidder, under the following circumstances:

a) the total cost of the lowest responsive bidder is in excess of the funds appropriated by the Township for the project, and

b) Council agrees that the changes required to achieve an acceptable bid will not change the general nature of the requirements described in the bid solicitation.

Council has the right to cease negotiations and reject any offer.

10.4 Identical Bids

If two equal bids are received, management will offer an opportunity for bidders to re-bid. Should a tie persist the following factors will be considered:

a) prompt payment discount,

b) when delivery is an important factor, the bidder offering the best delivery date will be given preference.

c) a bidder in a position to offer better future services, with a good record in this regard shall be given preference.

d) a bidder with an overall satisfactory performance record shall be given preference over a bidder known to have an unsatisfactory performance record or no previous experience with the Town.

e) If (a) through (d) do not break the tie equal bidders shall draw straws or flip a coin. This process shall be performed in the presence of a representative of the Town.

10.5 Only One Bid Received

In the event only one bid is received in response to a request for tender, Council may return the unopened bid to the bidder when, in the opinion of Council, using criteria, based on the number of bids which might reasonably be expected on a given type of bid, additional bids could be secured. In returning the unopened bid the Clerk-Treasurer shall inform the bidder that the Town may be recalling the tender at a later date.

In the event that only one bid is received in response to a request for tender, the bid may be opened and evaluated in accordance with the Town's usual procedures when, in the opinion of Council, the bid should be considered by the Town. If after evaluation of the bid and the bid is found not to be acceptable, then the procedures set out in Section 8.1 will apply.

In the event that the bid received is found acceptable, it will be awarded as an Irregular result under Schedule C of this By-law.

10.6 Guarantees of Contract Execution and Performance

Council may require that a Bid Bond or other similar security to guarantee entry in to a contract accompany a Bid. 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:

Est. Total Acquisition Cost	Minimum Deposit
$25,000 or less	5%
Greater than $25,000	10%

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

a) a performance bond to guarantee the performance of a Contract, and

b) a payment bond to guarantee the payments for labour and materials to be supplied in connection with a Contract and

c) an irrevocable letter of credit.

Council shall select the appropriate means to guarantee execution and performance of the Contract. Means may include one or more of, but are not limited to, certified cheque, bank draft, money order or other forms of security deposits, provisions for liquidated damages, progress payments, and holdbacks.

Prior to commencement of work and where deemed appropriate, evidence of insurance coverage satisfactory to Council, insurance risk must be obtained, ensuring indemnification of the Township of Larder Lake from any and all claims, demands, loses, costs or damages resulting from the performance of a supplier's obligations under the Contract.

Prior to payment to a supplier, a Certificate of Clearance from the Workplace Safety and Insurance Board shall be obtained ensuring all premiums or levies have been paid to the Board to-date.

Council shall ensure that the guarantee methods selected will:

a) not be excessive but sufficient to cover financial risks to the Town

b) provide flexibility in applying leverage on a supplier so that the penalty is proportional to the deficiencies., and

c) comply with provincial statutes and regulations.

10.7 Contractual Agreement

The award of Contract may be made by way of a formal agreement or Contract record.

A Contract record is to be used when the resulting contract is straightforward and will contain the Town's standard terms and conditions outlined in this By-law.

A formal agreement is to be used when the resulting contract is complex and will contain terms and conditions other than the Town's terms and conditions.

It shall be the responsibility of Council and Clerk-Treasurer to determine if it is in the best interest of the Town to establish a formal agreement with the supplier.

Where it is determined that the formal agreement is to apply the agreement shall be reviewed and approved by the Town Solicitor.

Where a formal agreement is required the Reeve and Clerk-Treasurer shall execute the agreement in the name of the Town of Larder Lake.

10.8 Contract Amendments and Revisions

No amendments or revision to a contract shall be made unless the amendment is in the best interest of the Town.

No amendment that changes the price of a contract shall be agreed to without a corresponding change in requirement or scope of work.

Amendments to contracts are subject to the identification and availability of sufficient funds in appropriate accounts within the Town Council approved budget including authorized revisions.

Management may authorize amendments to contracts provided that the total amended value of the contract is within the approved authority.

Where expenditures for the proposed amendment combined with the price of the original contract exceeds Town Council approved budget for the project, a report prepared by management shall be submitted to Council recommending the amendment, and proposing the source of financing.

10.9 Exclusion of Bidders in Litigation

The Town may, in its absolute discretion, reject a Tender, Proposal or Quotation submitted by the bidder if the bidder, or any officer or director of the bidder is or has been engaged, either directly or indirectly through another corporation, in a legal action against the Town, its elected or appointed officers and employees in relation to:

a) any other contract or services; or

b) any matter arising form the Town's exercise of its powers, duties, or functions.

In determining whether or not to reject a quotation, tender or proposal under this section, the Town will consider whether the litigation is likely to affect the bidder's ability to work with the Town and whether the Town's experience with the bidder indicates that the Town is likely to incur increased staff and legal costs in the administration of the contract if it is awarded to the bidder.

10.10 Bid Irregularities

The process of administrating irregularities contained in Bids pertaining to all contracts shall be as set out in Schedule C. For an irregularity listed in the first column of Schedule C, the appropriate response is set out opposite to the irregularity in the second column of Schedule C.

11.0 CONFLICT OF INTEREST

The staff shall not open and consider any bid, or otherwise acquire any goods or services from an elected official, officer or employee of the Town unless the elected official, officer or employee obtains approval from Council prior to the close of the bid or the acquisition of the goods or services.

No Council member or employee of the Town may purchase goods and services for personal use through the Town unless authorized by Council and the Clerk-Treasurer.

No elected official, officer or employee of the Town shall allow contact with a person, or any officer, employee or agent of the person who has submitted a bid to the Town unless the bid call has been awarded or the contact is for the purpose of receiving a complaint.

12.0 DISPOSAL OF SURPLUS

Where any goods are surplus, obsolete or unrepairable, they shall be declared surplus to the Town.

When no other use can be found for these items, they shall be added to the surplus list and at the discretion of the Town, dispose of through public auction, tender or quotation, whichever is in the best interest of the Township.

Where the item has limited market value the Town may, to the benefit of the Township, dispose of the item in a manner other than the ones listed above.

13.0 OTHER

13.1 Access to Information

The disclosure of information received relevant to the issue of bid solicitations or the award of contracts emanating from bid solicitations shall be in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, as amended.

13.2 By-Law Review

This by-law shall be reviewed prior to the end of each Council term and any amendment thereto shall be made prior to the inaugural meeting of the next Council.

The review shall determine how effective this By-law has been in achieving the objectives set out in Section 1 of the By-law as well as the requirements of the Municipal Act, 2001 as amended.

An ad-hoc committee of Council may undertake the By-law review. The final result, of which, will be comprised of a report to Council, by the Clerk-Treasurer.

13.3 Effective Date

This By-law shall come into force and take effect on the 10th day of June, 2010.

13.4 Repeal

All previous by-laws and amendments are hereby repealed on the effective date of this By-law 1298-10.

Schedule B

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

1. Training and Education

   a) Registration and Tuition fees for conferences, conventions, courses and seminars.
   b) Magazines, books and periodicals.
   c) Memberships

2. Refundable Employee/Councilor Expenses

   a) Advances
   b) Meal Allowances
   c) Travel and Entertainment
   d Miscellaneous – Non-Travel

3. Employer's General Expenses

   a) Payroll Deduction Remittance
   b) Medical
   c) Licenses (Vehicle, etc)
   d) Debenture Payments
   e) Grants to Agencies
   f) Damage Claims
   g) Tax Remittances

4. Professional and Special Services

   a) Committee Fees
   b) Legal fees and other professional services related to litigation or legal matters
   c) Witness Fees

5. Utilities

6. Advertising services required by the Town on or in but limited to radio, television, newspaper and magazines.

7. Bailiff or collection agencies.

Schedule C

	IRREGULARITY	RESPONSE
a	Late bids	Automatic rejection and not opened
b	Unsealed envelop	Automatic rejection
c	Insufficient financial security	Automatic rejection
d	Bids completed and/or signed in erasable medium	Automatic rejection
e	All sections of bid documents not completed	Automatic rejection unless, in the opinion of the Town the incomplete nature is trivial or insignificant
f	Bids received on documents other than those provided by the Town	Automatic rejection
g	Bids containing minor obvious clerical errors	48 hours to correct and initial errors
h	Failure to execute agreement to bond	Automatic rejection
i	Failure to execute bid bond by bidder and bonding company	Automatic rejection
j	Corporate seal of the bidder and bonding company missing	48 hours to correct
k	Corporate seal or signature missing; signatory's authority to bind the corporation or signature missing	48 hours to rectify situation
l	Corporate seal and signature missing; signatory's authority to bind the Corporation and signature missing	Automatic rejection
m	Non-initialed changes to the tender documents, other than unit prices, which are trivial or not significant	48 hours to initial. The determination of what constitutes trivial or insignificant non-initialed changes shall be made in the opinion of the Town
n	Unit prices in the Schedule of prices have been changed but not initialed and the contract totals are inconsistent with the price as changed.	48 hours to initial changes in the unit price. The determination of what constitutes trivial or insignificant non-initialed changes shall be made in the opinion of the Town.
o	Mathematical errors which are not consistent with unit prices	48 hours to initial corrections
p	Documents, in which all necessary Addenda, which have financial implication, have not been acknowledged	Automatic rejection
q	Any other irregularities	The Town shall have authority to waive other irregularities or grant 48 hours to initial such other irregularities, which they jointly consider to be minor.