



Memorandum

Corporate By-law Number: 359-2024-Corporate Services-Office of the City Treasurer

TO: Office of the City Clerk **FILE:**

FROM: Allan Hensel
Office of the City Treasurer, Corporate Services

DATE PREPARED: October 1, 2024

SUBJECT: By-law 359-2024 Supply Management

MEETING DATE: City Council - November 4, 2024

By-law Description: A By-law to govern the way the Corporation purchases goods, services and construction, to be known as the “Supply Management By-law”, and to repeal By-law 113-2011 as amended.

Authorization: Corporate Report 336-2024 – (Corporate Services-Office of the City Treasurer) Committee of the Whole – October 28, 2024.

By-law Explanation: The purpose of this by-law is to repeal and replace By-law 113-2011 as amended, being a By-law to govern the way the Corporation purchases goods, services and construction.

Schedules and Attachments:

Schedule “A”: List of Items for Which a Purchase Order is Not Required

Amended/Repealed By-law Number(s):



THE CORPORATION OF THE CITY OF THUNDER BAY
BY-LAW NUMBER 359-2024

A By-law to govern the way the Corporation purchases goods, services and construction, to be known as the “Supply Management By-law”, and to repeal By-law 113-2011, as amended

Recitals

1. The Corporation desires to have an uninterrupted supply of Goods, Services and Construction which meets its current and future needs and provides for economical and efficient service. At the same time, it recognizes that controls must be maintained in accordance with policy as approved by Council.
2. The Corporation is committed to the highest standards of integrity with respect to the purchase of Goods, Services and Construction and managing the processes by which Goods, Services and Construction are acquired. Contract award decisions shall be based on clear, transparent and objective criteria that are applied free from political considerations or political interference.
3. The Council considers it worthwhile to enact a by-law to regulate supply management for the following purposes:
 - a) procuring the necessary quality and quantity of Goods, Services and Construction in an efficient, timely and cost effective manner;
 - b) encouraging an open and competitive Bidding process for the acquisition and disposal of Goods, Services and Construction;
 - c) providing for the equitable and objective treatment of all suppliers and potential suppliers to the Corporation; and
 - d) create an environment that facilitates obtaining the best value of an acquisition.
4. It is necessary to repeal By-law Number 113-2011 of The Corporation of the City of Thunder Bay (the “Corporation”) as amended, as determined by resolution of the Committee of the Whole dated October 28, 2024.

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

1.00 Definitions and Interpretation

1.01 Definitions

Wherever a term set out below appears in the text of this By-law with its initial letter capitalized, the term is intended to have the meaning set out for it in this Section 1.01. Wherever a term below appears in the text of this By-law in regular case, it is intended to have the meaning ordinarily attributed to it in the English language.

- (a) “Acquisition Method” means the process by which Goods, Services and Construction are Procured.
- (b) “Bid” means an offer or submission received from a prospective supplier of Goods, Services and Construction to a Bid Request.
- (c) “Bidder” means a person responding to a Request for Proposals, a Request for Quotations or a Tender issued by the Corporation.
- (d) “Bid Request” means a formal request for Bids or a solicitation, which may be in the form of a Request for Quotation, Tender or Request for Proposal.
- (e) “Blanket Purchase Order” means a Purchase Order which establishes prices or a method for determining prices, terms and conditions over a stipulated period of time during which a vendor agrees to provide Goods, Services and Construction to the purchaser upon the purchaser's demand. The Corporation uses Blanket Purchase Orders for frequently purchased Goods, Services and Construction, and various different departments within the Corporation utilize the Blanket Purchase Orders for their respective terms.
- (f) “By-law”, unless followed by a particular number, means this By-law, including its recitals and schedules, which are considered operative parts of it, as amended from time to time. When followed by another number, the term refers to the Corporate by-law bearing that number.
- (g) “City Manager” means the person within the employ of the Corporation holding that job title and being the chief administrator for the Corporation.
- (h) “City Solicitor” means a person or firm, whether employed by the Corporation or retained by the Corporation to provide legal advice to the Council and administration.
- (i) “Commissioner Corporate Services” means the person within the employ of the Corporation holding that job title.
- (j) “Competitive Method” means an Acquisition Method where vendors are given an equal opportunity to submit Bids in accordance with Corporate policy and procedures.

- (k) “Construction” means a construction, reconstruction, renovation, repair, rehabilitation, or demolition of a building, building fixture, structure, road, or other civil engineering or architectural work, and includes preparation, excavation, supply of products, materials, equipment and machinery related to the construction. Professional consulting services are excluded unless they are related to the construction and are included in the construction procurement.
- (l) “Contract” means a written and binding agreement in accordance with law. It may take the form of a Purchase Order or other form of written agreement. The term does not include verbal agreements.
- (m) “Contractor” means the Bidder with whom the Corporation enters into a Contract as the result of a Bid Request.
- (n) “Corporate” means belonging to, or under the control of, the Corporation.
- (o) “Corporation” means The Corporation of the City of Thunder Bay, a municipal corporation duly incorporated and in good standing in accordance with the *Municipal Act, 2001*.
- (p) “Council” means the elected municipal council of the Corporation.
- (q) “Department/Division Head” means a member of the Senior Leadership Team who reports directly to a Commissioner or the City Manager.
- (r) “Emergency” means an event or occurrence that the City Manager, the Police Chief or Deputy Police Chief, the Fire Chief or Deputy Fire Chief, or the Community Emergency Management Coordinator (where the Mayor has declared an emergency under the *Emergency Management and Civil Protection Act*) deem as an immediate threat to:
- public health;
 - the maintenance of essential Corporate services; or
 - the welfare and protection of persons, property, or the environment; and
 - the event or occurrence necessitates the immediate need for Goods, Services and Construction to mitigate the Emergency, and time does not permit for a Competitive Method.
- (s) “Emergency Method” means the procurement process outlined in Article 6.00 of this By-law where the usual competitive acquisition rules are suspended due to the prevailing emergency circumstances.
- (t) “Executive Leadership Team” means a committee of administrators selected and chaired by the City Manager.

- (u) "Field Purchase Order" has the meaning set out in Section 4.03 of this By-law.
- (v) "Goods and Services" is a phrase that includes labour, supplies, materials, equipment and services of every kind that are not otherwise listed or described in Schedule "A" to this By-law. The "and" in the phrase is intended to be read as "and/or".
- (w) "Manager Supply Management" means the person within the employ of the Corporation holding that job title.
- (x) "Procure" means to acquire by purchase, rental, lease or trade.
- (y) "Purchase Order" means a written offer to Procure Goods, Services and Construction, or a written acceptance of an offer to acquire Goods, Services and Construction, made on the Corporation's form bearing that title.
- (z) "Request for Expressions of Interest" or "EOI" means an invitation to the bidding community to indicate whether or not there is interest in bidding for the supply of Goods, Services and Construction. It is used from time to time to determine whether there is sufficient vendor interest to justify proceeding with procurement using a Competitive Method and/or to gain additional information on the Goods, Services and Construction in question from the vendor community.
- (aa) "Request for Proposal" (also known as "RFP") is a process where the Corporation seeks more information from Bidders than merely the price. The specifications outlined in the Request for Proposal document are not necessarily detailed or precise, and Bidders are asked to provide creative solutions to help the Corporation meet the goal outlined in the RFP document. The RFP document contains the criteria by which the Corporation will judge the various Bids submitted to determine which will be awarded the Contract. An administrative team will score the Bids based on the stipulated criteria.
- (bb) "Request for Quotations" (also known as "RFQ") is a process where the Corporation makes contact directly with selected Bidders, seeking pricing information for certain Goods, Services and Construction.
- (cc) "RFx" is an abbreviation representing any of the following procurement processes: Request for Proposal, Request for Tender, Request for Quotation, Request for Information, Expression of Interest. Vendor of Record, Request for Roster.
- (dd) "Single Source" means the supplier where there is more than one source in the open market but only this one is recommended for consideration in a Contract, without a Bid Request.
- (ee) "Sole Source" means the supplier where there is only one source of supply of particular Goods, Services and Construction.

- (ff) "Purchase Order" is an internal Corporate document used to process payments to Contractors. The term includes Blanket Purchase Orders and Field Purchase Orders.
- (gg) "Tender" is a process where the Corporation specifies in a Tender document, with detail and precision, the exact Goods, Services and Construction it requires. Bidders are asked to submit Bids that include pricing only, with no deviation from any of the terms, conditions or specifications in the Tender document.
- (hh) "Total Project Cost" means the sum of all costs that would normally be paid to one vendor for Goods, Services and Construction required to meet a major objective over a period of time.

1.02 Interpretation Rules

This section sets out the rules for interpreting the text used in this By-law.

- (a) The captions, articles and section names and numbers appearing in this By-law are for convenience of reference only and have no effect on its interpretation.
- (b) This By-law is to be read with all changes of gender or number required by the context,
- (c) The words " include", " includes", " including" and " included" are not to be interpreted as restricting or modifying the words or phrases which precede them.
- (d) If any article, section, subsection, paragraph, clause or subclause or any of the words contained in this By-law is held wholly or partially illegal, invalid, or unenforceable by any court or tribunal or competent jurisdiction, the remainder of this By-law shall not be affected by the judicial holding, but shall remain in full force and effect.
- (e) This By-law takes precedence over any by-law of the Corporation which pre-dates it and is inconsistent with it.
- (f) References within this By-law to the titles of the Corporation's employees are references to the positions that held those titles at the time that this By-law was enacted. Where a corporate restructuring has occurred such that there is no longer a person within the organization who holds a referenced title, the reference is to the person who undertakes the duties of the title-holder at the time this By-law was enacted. In any case of doubt, the Chief Administrative Officer for the Corporation shall delegate the authority to the appropriate person and direct that this By-law be amended to reflect the new title.

- (g) Any reference to a person employed by, or contracted to the Corporation is considered to include his or her delegates, provided the delegation is in writing.
- (h) Purchase Orders contain general terms and conditions. These terms and conditions apply to the Contract that they are connected with, unless the Contract's terms and conditions contradict them. In that case, the terms and conditions in the Contract supersede those in the Purchase Order.
- (i) All references to dollars in this By-law are references to Canadian Dollars.

2.00 Purchasing Principles

2.01 Principles Stated

- (a) The Corporation will Procure the necessary quality and quantity of Goods, Services and Construction for its business in an efficient and cost effective manner.
- (b) The Corporation will consider the total cost of acquisition, repair, staff training, operation and disposal when considering offers from suppliers to provide Goods, Services and Construction. This will not necessarily equate to the lowest price observed at first observation.
- (c) The Corporation will give full consideration to the Total Project Cost and/or to the total amount anticipated to be spent annually by all departments on specific Goods, Services and Construction before determining the appropriate Acquisition Method as set out in this By-law.

2.02 Ethics

All Corporate staff shall comply with the codes of purchasing ethics established by the National Institute of Governmental Purchasing, Inc. and the Purchasing Management Association of Canada in respect of all Corporate acquisition and disposal processes. Copies of these codes are available at the offices of the Supply Management Division of the Corporate Services Department of the Corporation.

All suppliers and potential suppliers to the Corporation must adhere to a strict ethical standard in all Corporate acquisitions.

2.03 Sustainable Environmental and Ethical Procurement:

The Corporation is committed to a procurement process for Goods, Services and Construction that takes into account sustainable environmental and ethical procurement considerations. Suppliers and potential suppliers to the Corporation must respect fundamental human rights, and treat their workers fairly and with respect. They are also expected to strive continually towards minimizing the environmental impact of their operations and the Goods, Services and Construction provided.

In this regard, the Corporation will:

- (a) work cooperatively with suppliers and other key stakeholders to advance Corporate social responsibility in the business community by promoting sustainable environmental and ethical procurement considerations and encourage suppliers and subcontractors to work towards the highest possible environmental and ethical standards where practical;
- (b) develop a supplier community that exhibits leadership in Corporate social responsibility through its efforts to continuously improve best practices that protect the welfare of workers and the environment, and encourage sound social stewardship, all the while maintaining a competitive position in the market;
- (c) embed ethical, environmental, social and economic performance criteria into all Corporate supply chain procedures, processes and activities; and
- (d) audit supplier compliance with these principles through a combination of external independent certifications, supplier disclosures and certifications, and disclosure of information about factory and production facilities.

3.00 General Provisions

3.01 Purpose and Effect of By-law

This By-law is enacted as an internal policy of the Corporation. Its provisions do not confer any rights of any kind on any other person, whether or not the Corporation, its Council, officers, agents, or employees, have acted in accordance with this By-law.

3.02 Role of Manager Supply Management

The Manager Supply Management shall exercise general supervision and control over the procurement of all Goods, Services and Construction in accordance with this By-law. The Manager Supply Management is authorized to make and issue administrative rules of procedure as necessary to implement this By-law.

3.03 Group Purchasing

The Manager Supply Management is authorized to enter into negotiations for the purpose of cooperative buying procedures with other bodies and agencies as may be considered to be advantageous to the Corporation.

3.04 By-law to Govern – Exemptions

All Procurements made by the Corporation shall be carried out in accordance with this By-law, with the following exceptions:

- (a) external legal services;
- (b) external insurance adjusting services;
- (c) payment of insurance claims and lawsuit settlements; and
- (d) software maintenance contracts.

3.05 Approved Budgets

All acquisitions shall be in accordance with approved departmental budgets and estimates except where Council by by-law or resolution otherwise determines.

3.06 Corporate Obligations

The purpose of this By-law is, as set out in the Recitals, to facilitate the efficient and effective acquisition of Goods, Services and Construction. In that regard, the Corporation is under no obligation to accept the lowest Bid or any Bid received in response to a verbal or written request. There may be considerations beyond the price that govern the Corporation's choices in any given circumstance.

3.07 Disqualified Bidders List

The Manager Supply Management will maintain a list of persons from whom no Bids will be accepted by the Corporation. This list will include the names of persons who have performed poorly (or not at all) in past Contracts or who are involved in litigation with the Corporation relating to past Contracts. Persons whose names are on the list will not be permitted to submit Bids. In addition, the Manager Supply Management may refuse to accept Bids from persons who are affiliated with a person on the list through direct involvement or effective control by one or more of the directing minds of the other person on the list.

The disqualified Bidders list maintained under this Section applies to allow the disqualification of a Bid regardless of whether or not any particular acquisition process has involved a pre-qualification process.

Department/Division Heads shall monitor the performance of Contractors, including documenting evidence of their performance. Department/Division Heads will inform the Manager Supply Management, in writing, where the performance of a Contractor has failed to comply with a Contract or other Corporate requirements. The Manager Supply Management will consider this information when determining whether or not a person's name is added to the disqualified Bidders list.

3.08 Litigants

Unless otherwise permitted by this section, no Bid shall be accepted from, nor shall any Contract be awarded or extended to any Contractor, its principals, directors or any officer of that firm, or another related person (as determined by the Manager Supply Management, in his or her sole and unreviewable discretion), with whom the Corporation is engaged in unresolved litigation.

A Bid may be accepted and a Contract may be awarded to a Contractor or other related party with whom the Corporation is engaged in unresolved litigation in the following circumstances:

- (a) where there is only one qualified supplier of Goods, Services and Construction;
- (b) in the case of an Emergency;
- (c) where there is a legal obligation on the part of the Corporation to enter into the Contract;

- (d) where the proposed Contract is pursuant to the co-operative purchasing provisions of this By-law and where another public agency will be party to the Contract and has approved the award; or
- (e) where the Corporation is a plaintiff or defendant pursuant to a subrogated interest and where, in the discretion of the Corporation, an appropriate arrangement has been made to indemnify the Corporation.

3.09 Dispute Resolution Mechanism for Bidding Process

Contracts are typically awarded after the Bids are opened and sufficient time has passed to review the Bid to check its compliance with all of the requirements. A Bidder wishing to dispute the pending award of a contract shall make this known to the Manager Supply Management, in writing, within seven (7) days from the date of the public opening of Bids in a Tender process, or the submission closing date in a Request for Quotation (RFQ) or a Request for Proposal (RFP) process, whichever Bid process is applicable.

When the Manager Supply Management receives written notice of dispute, they will meet with the Bidder within seven (7) days from the date of receipt of the written notice of dispute. If that meeting does not lead to a resolution of the dispute, and if the Bidder wishes to continue to dispute the pending award of a Contract, the Bidder will make this known to the City Manager, in writing, within seven (7) days from the date the Bidder was notified by the Manager Supply Management of his or her decision.

When the City Manager receives a written notice of dispute, they will meet with the Bidder within seven (7) days from the written notice of dispute. The City Manager, at his or her sole and unreviewable discretion, may hold the meeting in person or by way of written submission. Upon hearing the dispute, the City Manager, shall review it with the City Solicitor and provide a decision to the Bidder within seven (7) days from the date of the meeting. The decision of the City Manager in determining the dispute is final.

3.10 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 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 initialed, and the Bid totals are inconsistent with the prices as changed; or
- (h) addenda issued by the Corporation, which have financial implications, have not been acknowledged.

The following irregularities may be overlooked by the Manager Supply Management if they consider 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 Manager Supply Management.

Where an error or irregularity is made that is not referenced in this section, the Manager Supply Management shall, in consultation with the City Solicitor, 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.

3.11 Tie Bids

In the event of two or more identical or tied Bids, the Manager Supply Management shall, in the presence of at least two departmental staff persons, toss a coin. The Award shall then be made to the winner of the coin toss. Where there are more than two Bids and they remain tied or identical following that evaluation, the Manager Supply Management shall, in the presence of at least two departmental staff persons, conduct a lottery draw. The Award shall then be made to the winner of the lottery.

4.00 Standard Procurement – Methods of Acquisition

4.01 Pricing Limits

All applicable taxes, duties and shipping are excluded in determining the procurement limit of authorized delegates and the type of procurement process to be followed as set out in this Article 4.

4.02 Purchase Order Requirements

The acquisition of any Goods, Services and Construction requires a Purchase Order unless the Goods, Services and Construction are listed in Schedule “A”.

4.03 Blanket Purchase Orders

Where a Blanket Purchase Order exists for acquisitions of Goods, Services and Construction, none of the specified Goods, Services and Construction may be Procured except through that Blanket Purchase Order.

4.04 Purchases At or Under \$1,000

The acquisition of Goods and Services having a value of \$1,000 or less which are not covered by a Blanket Purchase Order shall be carried out by the Department/Division Head in accordance with the principles set out in this By-law and such other applicable policies and procedures established from time to time. These Procurements may be undertaken using:

- (a) petty cash;
- (b) Field Purchase Orders; or
- (c) Corporation-issued Procurement credit cards.

4.05 Purchases Between \$1,000 and \$15,000

The acquisition of Goods, Services and Construction, having a value of at least \$1,000 but less than \$15,000 which are not covered by a Blanket Purchase Order shall be carried out by the Department/Division Head in accordance with the principles set out in this By-law and such other applicable policies and procedures established from time to time. These Procurements may be undertaken using:

- (a) Field Purchase Orders; or
- (b) Corporation-issued Procurement credit cards.

4.06 Purchases of Goods and Services Between \$15,000 and \$133,800 and Construction Between \$15,000 and \$334,400

Goods and Services with an estimated value greater than \$15,000 but less than \$133,800 and Construction with an estimated value of at least \$15,000 but less than \$334,400 may be purchased through an invitational RFX process.

Once authorized, at least three written quotations shall be solicited with oversight by the Manager Supply Management, or designate, in consultation with the requisitioning Department/Division Head. The lowest acceptable Bid, or the highest scoring proposal in the case of an RFP, will be accepted and the Bidder who provided it shall be the Contractor.

4.07 Purchases of Goods and Services greater than \$133,800 and Construction greater than \$334,400

Goods and Services with an estimated value of at least \$133,800 and Construction with an estimated value of at least \$334,400 shall be procured using an open, competitive RFX process. Once authorized, the Manager Supply Management, in consultation with the requisitioning Department/Division Head, shall:

- (a) Advertise the Bid Request in one or more publications of general circulation;
- (b) Publicize the Bid Request through at least one publicly accessible web site;
- (c) Receive Bids up to the published deadline; and
- (d) Unofficial Tender results will be posted within 48 hours, on Supply Management’s chosen online bidding system. Results of all RFPs conducted will be posted once an official award has been made to the successful proponent.

Where it is not possible to prepare precise specifications to issue a Tender, or criteria beyond price is to be evaluated, a Request for Proposals shall be issued. Supply Management shall establish evaluation criteria and weightings, in consultation with the requisitioning Department/Division Head, for the criteria. The RFP shall clearly distinguish those requirements that are mandatory and non-mandatory, and shall clearly outline how these items will be evaluated.

5.00 Standard Procurement – Approval Authority

5.01 Delegated Approval Authorities

The Authorization Schedule below sets out the authorities for the standard procurement methods described in Section 4:

Authorization Level	Delegated Approval Authority
Greater than \$1,000,000	City Manager
\$500,000 to \$1,000,000	Commissioner
\$100,000 to \$500,000	Director/Chief/Deputy
\$15,000 to \$100,000	Manager or Section Head Reporting to Director/Chief/Deputy
\$0 to \$15,000	Supervisor

No procurement may be initiated unless approved Budget is available in an amount sufficient to cover the expected procurement value.

The Delegated Approval Authority set out in the Authorization Schedule includes the authority to:

- (a) initiate a procurement;
- (b) conduct a procurement and approve the award of a Contract in accordance with this By-law;
- (c) approve Contract amendments. When determining the appropriate approval authority, the total value of the Contract including all Contract amendments must be considered.

5.02 Council Approval Generally

Formal approval of a budget by Council constitutes financial approval to initiate Procurements, subject to the requirements of this By-law, and any scheduling or priority considerations determined necessary by Council or the City Treasurer.

Prior to the passing of the annual operating Budget, each Department will be allowed an interim appropriation of fifty percent (50%) of the previous year's operating Budget, and such interim appropriation will be deemed to be for routine operating and recurring expenditures or statutory purposes unless otherwise directed by Council.

After a Bid Request, in addition to other reporting requirements set out in this By-law, a report must be submitted to Council by the requisitioning department to approve a Contract award when:

- (a) the acquisition has a value of at least \$133,800 and the lowest acceptable Bid, or highest scoring proposal, in the case of a Request for Proposal, is not being recommended; or
- (b) the method of procurement is a negotiated Request for Proposal and the estimated value of the acquisition will exceed \$5,000,000, excluding items which are required for replenishment of inventory.

6.00 **Non-Standard Procurement**

6.01 Use of Negotiation for Goods, Services and Construction Less Than \$133,800

Despite any other provisions of this By-law, in circumstances set out in this Section, the requisitioning Department/Division Head may wish to negotiate with one or more potential suppliers for acquiring Goods, Services and Construction valued at \$133,800 or less. In that case, the Department/Division Head shall consult with the Manager Supply Management who may then enter into negotiations with one or more vendors for the supply of Goods, Services and Construction when any of the following conditions exist:

- (a) due to market conditions, Goods, Services and Construction are in short supply;
- (b) it is a Sole Source circumstance (including circumstances where only one Bidder submitted an acceptable Bid);
- (c) all acceptable Bids exceed the amount budgeted for the Goods, Services and Construction and the lowest Bid is within twenty (20%) percent of budget;
- (d) market research indicates that the extension or reinstatement of an existing Contract would be more cost-effective or beneficial to the Corporation;
- (e) a Single Source is being recommended because it is more cost-effective or is otherwise more beneficial; or
- (f) when authorized by Council.

If consultation between the requisitioning Department/Division Head and the Manager Supply Management does not result in consensus as to whether or not to negotiate rather than issue a Bid Request, then the final determination shall be made by the Commissioner Corporate Services.

6.02 Use of Negotiation for Goods, Services and Construction Valued at More Than \$133,800

In circumstances where Section 6.01 would have applied had the value of Goods, Services and Construction been \$133,800 or less, but the estimated value exceeds that, this Section applies.

Despite any other provisions of this By-law, the requisitioning Department/Division Head shall consult with the Manager Supply Management to determine if there is suitable merit for the use of the Negotiation Method for the purchase of Goods, Services and Construction valued at greater than \$133,800.

If consultation between the requisitioning Department/Division Head and the Manager Supply Management does not result in consensus to use the Negotiation Method, then the final decision as to whether or not to use the method shall be made by the City Manager.

If it is determined that the Negotiation Method is suitable, the requisitioning Department/Division Head shall prepare and submit a report to Council seeking approval for the use of this method prior to making any Contract award.

6.03 Emergency Method for Goods, Services and Construction up to \$133,800

In the event of an Emergency, each of the following is authorized to enter into a Contract for Goods, Services and Construction up to a value of \$133,800 without the requirement for any Competitive Method: the City Manager, Commissioner, or the Fire Chief or Deputy Fire Chief. The Procurement shall be undertaken using the most expedient, economical, and practicable means in the circumstances.

6.04 Emergency Method for Goods, Services Construction over \$133,800

Where an Emergency exists, the City Manager, Commissioner or Fire Chief is authorized to requisition the Manager Supply Management to obtain necessary Goods, Services and Construction having an estimated value of over \$133,800 through the most expedient, economical, and practicable means in the circumstances, provided that the requisitioner in consultation with the City Manager, prepares and submits a report to the Executive Leadership Team at its next meeting explaining the circumstances giving rise to the Emergency.

Where the cumulative total of all purchases made to address the Emergency is greater than \$500,000, a report shall be made by the City Manager to City Council as soon as possible when the Emergency is over, explaining the circumstances and providing for the appropriate budgetary adjustments.

7.00 Specifications

7.01 Responsibility for Preparation

The preparation of the specifications to be included in Bid Requests is the responsibility of the requisitioning department.

The Manager Supply Management has the authority to review and recommend to the requisitioning department any improvements to the specifications. The requisitioning department and the Manager Supply Management shall work cooperatively in the finalization of the specifications. The Manager Supply Management may reject any specification that is not consistent with this By-law.

7.02 Brand Name Avoidance

Specifications will not stipulate a specific product, particularly by brand name.

7.03 Exception to Section 7.02

A requisitioning department may specify a specific product, brand name or approved equal for essential functionality purposes (with consideration for operating, maintenance and standardization costs) to avoid unacceptable risk or for some other valid purpose. In such instances, the Department/Division Head of the requisitioning department and the Manager Supply Management shall work together to manage the procurement to achieve a competitive situation whenever possible.

7.04 Rules for Preparing Specifications

The paragraphs in this Section stipulate requirements to be followed in the preparation of specifications for Bid Requests:

- (a) Specifications should be detailed but leave sufficient flexibility for potential vendors to provide alternatives in the event an equal or better-proven product or method is available. This maintains competitiveness in the procurement process.
- (b) Where the specification requirements of the requisitioning department have been prepared in a manner that leads the Manager Supply Management to believe that it will result in a Single Source purchase, the Manager Supply Management will refer the matter to the Executive Leadership Team for discussion and conclusion as to whether the specifications are appropriate in the circumstances. If so, the Executive Leadership Team will recommend that

the requisitioning department negotiate for the Procurement following the rules associated with Sole Source Procurement as set out in Sections 6.01 and 6.02 of this By-law.

(c) Potential vendors may be requested to expend time, money or effort on the content and/or in the development of specifications, or to otherwise help define a requirement to be contained in the specifications or elsewhere in the Bid Request documents. A vendor who provides such assistance may have obtained sufficient information to be considered to have a competitive advantage, and in that case, shall be paid a consulting fee and be ineligible to submit a Bid in response to the purchasing process that it assisted with.

(d) Regardless of assistance obtained by external parties, all specifications are and remain the property of the Corporation.

8.00 Forms of Commitment

8.01 Expenditures of \$1,000 or Less

Expenditures of \$1,000 or less may be authorized by a Department/Division Head and may be made without the involvement of the Manager Supply Management in accordance with the policies and procedures prescribed in this By-law.

8.02 Expenditures of More Than \$1,000

Except as otherwise directed by Council, Contract awards for expenditures of more than \$1,000 shall be made by the Manager Supply Management or as delegated in accordance with this By-law, through the issuing of a Purchase Order or Contract, provided that the appropriate Acquisition Method has been followed to select the Contractors in accordance with this By-law.

9.00 Disposal of Surplus Goods

9.01 Role of Manager Supply Management

The Manager Supply Management is responsible for the disposal of all surplus Corporate assets, exclusive of real estate.

9.02 Surplus Goods Listing

Department/Division Heads shall identify goods valued at \$250 or more which become surplus to their departmental needs and submit the lists to the Manager

Supply Management. These lists shall be kept current and will be made available to all staff responsible for purchasing Goods and Services. Corporate staff should consult the surplus lists to determine whether there are goods available to them prior to Procuring goods. Material on the surplus list shall be stored under the control of the Manager Supply Management.

9.03 Method of Disposal to Achieve Best Overall Corporate Benefit

Surplus goods valued at \$250 or more shall be disposed of. The method of disposal used on a particular surplus item will be that which results in the best overall benefit to the Corporation. Disposal methods include:

- (a) scrap, dismantle or destroy, classify as waste and dispose;
- (b) transfer to another department, committee or program for use within the Corporation;
- (c) donate to an external non-profit or charitable organization;
- (d) trade-in, and/or return to the supplier for credit;
- (e) invite public or selective quotations; or
- (f) undertake a public auction.

9.04 No Disposal to Corporate Employees or Members of Council

The Bid for or purchase of any surplus Corporate goods directly or indirectly by or for a Corporate employee or a member of the Council is prohibited. For clarification, the Bid for or purchase of an asset is considered to be made “indirectly” by a Corporate employee or member of the Council if it is made by a parent, spouse, sibling or child of that individual, or from a company owned or controlled by that individual or by a parent, spouse, sibling or child of that individual whether or not the item is ever transferred to the employee or member of Council. Accordingly, purchases by those individuals or companies are also prohibited, subject to the Code of Conduct.

10.00 Prohibitions

10.01 Division of Contracts

Any attempt to evade or circumvent the requirements of this By-law is prohibited. This includes the division of purchases in an apparent attempt to artificially

reduce the estimated or actual Total Project Cost in order to avoid particular requirements of this By-law. The same is true regardless of the method of purchase utilized.

10.02 Personal Purchases

Purchase by the Corporation of any Goods and Services for personal use by or on behalf of any Corporate employee or member of the Council for purposes other than the legitimate requirements of the Corporation is prohibited.

10.03 Restrictions on Seeking External Vendors

Where Goods and Services are available within the Corporation (for example, at City Stores or through City Printing & Graphics), external purchases of the same Goods and Services is prohibited. The prohibition will be waived if the requisitioning department can demonstrate to the Manager Supply Management that the purchase from an external source will result in a lower total acquisition cost, or that the department's requirements exceed internal capabilities.

10.04 Conflicts of Interest; Codes of Conduct When Purchasing

The acceptance of gifts, benefits, money, discounts, favours or other assistance by any Corporate employee or member of the Council, whether directly or indirectly, from potential suppliers to the Corporation is prohibited. The image and integrity of the Corporation, and its staff and elected officials, must be preserved at all times. Everyone involved in the purchasing process shall abide by relevant conflict of interest policies and codes of ethical conduct. For clarification, favours are considered to be bestowed "indirectly" to a Corporate employee or member of the Council if it is bestowed upon a parent, spouse, sibling or child of that individual, or upon a company owned or controlled by that individual, or by a parent, spouse, sibling or child of that individual, in any case whether or not the benefit is ever transferred to the employee or member of Council. Accordingly, acceptance of gifts, benefits, money, discounts, favours or other assistance by those individuals and companies is also prohibited.

10.05 Conflicts of Interest; Codes of Conduct When Selling

The Corporation will not purchase Goods, Services and Construction from any Corporate employee or member of the Council, whether directly or indirectly, except in accordance with all relevant conflict of interest policies and codes of ethical conduct, and the requirements of the Municipal Conflict of Interest Act. For clarification, Goods, Services and Construction are considered to have been purchased "indirectly" from a Corporate employee or member of the Council if

they are purchased from a parent, spouse, sibling or child of that individual, or from a company owned or controlled by that individual or by a parent, spouse, sibling or child of that individual, in any case whether or not the benefit is ever transferred to the employee or member of Council. Accordingly, purchasing from those companies and individuals is also prohibited.

10.06 Official Point of Purchasing Contact

The official point of purchasing contact is the Manager Supply Management, or a member of his or her staff. Should it be necessary or desirable to have a contact person to respond to technical issues, that person shall be named in the competitive Bid documents. All communications will be made by these individuals and, during the procurement process, no Bidder or person acting on behalf of a Bidder, shall contact any member of Council, any consultant engaged by the Corporation with respect to the particular purchase in question, or any employee of the Corporation to attempt to seek information or to influence the award of the Contract. Any activity that will or will appear to influence the decision process, including the contact prohibited in this Section, and including contact purporting to be meetings of introduction, social events, meals or meetings related to the selection process, shall result in disqualification of the Bidder for the project to which the influential activity is directed. This prohibition does not apply to meetings specifically scheduled by the Manager Supply Management for presentations or negotiations. Any Bidder found to be in breach of this Section shall be subject to immediate disqualification from the procurement process and may be prohibited from future bidding opportunities at the discretion of Manager Supply Management.

In addition, no Contractor shall engage in any contact or activities in an attempt to influence any Corporate employee or member of the Council with respect to the purchase of additional enhancements, options, or modules. However, a Contractor may communicate with the Manager Supply Management or an appropriate member of his or her staff, for purposes of administration of the Contract during the term of the Contract.

The determination of what constitutes influential activity is in the sole discretion of the Manager Supply Management, acting reasonably, and not subject to appeal.

Any employee who is approached by a potential supplier should refer the supplier to the Supply Management Division of the Corporate Services Department.

11.00 Responsibilities and Authorities

11.01 By-law to Govern All Purchases

No expenditure, purchase or commitment shall be incurred or made, and no account shall be paid by the Corporation for Goods, Services and Construction, except as provided in this By-law or otherwise approved by Council.

11.02 Budget Consideration

No Contract shall be entered into and no expenditure shall be authorized or incurred unless Council has provided funds for such purpose in the annual budget or otherwise agreed to the provision of such funds, and no expenditure shall be authorized or incurred in excess of the funds provided unless otherwise authorized by Council.

11.03 Role of Manager Supply Management

The Manager Supply Management is responsible for:

- (a) providing professional procurement advice, including assistance in business decisions based on market place knowledge, market timing or other professional supply opinions;
- (b) soliciting for the purchase of Goods, Services and Construction;
- (c) determining the method and scope of solicitation, including reviewing statements of work and specifications as prepared by the requisitioning department, for objectivity, transparency and fairness;
- (d) developing co-operative purchasing plans with other levels of government, municipalities, boards, agencies, commissions, or private sector entities where such plans are in the best interests of the Corporation;
- (e) standardizing procurement procedures;
- (f) monitoring compliance with this By-law;
- (g) notifying the Commissioner of Corporate Services, in advance if possible, of any non-compliance with this Policy;
- (h) in consultation with the Human Resources Division of the City Manager's Office or the City Solicitor, rejecting any purchase requisitions for services

where the services could result in the establishment of an employee/employer relationship;

(i) disposing of surplus Corporate assets;

(j) cancelling any procurement process, at any stage, when:

- there is a request by the requisitioning Department/Division Head, and responses are greater in value than the funding approval for the commitment that would result from an award in respect of the call; or
- in the opinion of the requisitioning Department/Division Head or the Manager Supply Management, a change in the scope of work or specifications is required, and therefore a new call should be issued; or
- the Goods, Services and Construction to be provided by the call no longer meet the Corporation's requirements; or
- in the opinion of the Manager Supply Management, the integrity of the process has been compromised.

12.00 General

12.01 Repeal of Predecessor By-laws and Transition

The following by-laws of the Corporation are repealed:

(a) 113-2011 as amended – A By-law to govern the way the Corporation purchases supplies, services and equipment.

(b) By-law 059-2015 – Amendment to 113-2011

(c) By-law 085-2024 – Amendment to 113-2011

12.02 This By-law shall come into force and take effect on the date it is passed.

12.03 The provisions of this By-law apply to all Acquisition Methods to Procure Goods and Services, or Construction that are commenced on or after the coming into force of this By-law. All Acquisition Methods to Procure Goods and Services or Construction that are commenced during the time that City of Thunder Bay By-law 113-2011, as amended was in force are subject to the provisions of that By-law.

Enacted and passed this 4th day of November, A.D. 2024 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Ken Boshcoff

Mayor

Dana Earle

Deputy City Clerk

Schedule "A"

List of Items for Which a Purchase Order is Not Required

Subject to this By-law, a Purchase Order is not required for the following items, unless requested by the requisitioner:

1. Training and Education

Items associated with the training and education of employees and members of Council, including:

- a. Conferences
- b. Courses
- c. Conventions
- d. Memberships
- e. Seminars
- f. Periodicals
- g. Magazines
- h. Staff training
- i. Staff development
- j. Staff workshops
- k. Subscriptions
- l. Textbooks

2. Refundable Expenses

Reimbursements of corporate expenses to employees or members of Council, including:

- a. Advances
- b. Meal allowances
- c. Travel expenses
- d. Entertainment
- e. Miscellaneous – non-travel
- f. Hotel accommodation

3. General Expenses

Costs made in the normal course of being an employer or operating a municipality, including:

- a. Payroll deduction remittances
- b. Medical and dental expenses
- c. Licenses (vehicles, elevators, radios, etc.)
- d. Debenture payments
- e. Grants to agencies
- f. Petty cash reimbursement

- g. Tax remittances
- h. Charges to or from other government bodies or Crown corporations
- i. Sinking fund payments
- j. Employee income
- k. Senior management vehicles and maintenance
- l. Bank charges and underwriting services where covered by agreements
- m. Postal and courier charges
- n. Insurance premiums
- o. Professional association memberships

4. Certain Professional and Special Services

The following payments:

- a. Committee fees and/or honoraria
- b. Witness fees
- c. Court reporters' fees
- d. Payments to Board Members of the Corporation's companies, associations or other business organizations
- e. Arbitrators
- f. Appraisers

5. Utilities

Payments for the supply of required utilities, including:

- a. Postage
- b. Water and sewage charges
- c. Hydro
- d. Gas
- e. Telephone and internet service charges
- f. Television service charges