

THE CORPORATION OF THE MUNICIPALITY OF BRIGHTON

**BY-LAW NUMBER 371-2006
BEING A BY-LAW TO ESTABLISH A PURCHASING POLICY FOR THE
MUNICIPALITY OF BRIGHTON**

WHEREAS it is deemed desirable to establish a policy to direct the purchase of goods and services by the various departments within the Municipality;

AND WHEREAS, it is necessary to set out minimum requirements to ensure the municipality obtains the best value in goods and services at the most economical cost;

NOW, THEREFORE, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF BRIGHTON HEREBY ENACTS AS FOLLOWS:

1. This By-law shall be entitled the **“Purchasing Policy By-law”**
2. A policy shall be and is hereby established for the purchase of goods and services by the various departments of the Municipality, in accordance with Schedules “A” and “B” attached hereto. Said Schedules “A” and “B” shall be deemed to be a part of this by-law to the same extent and effect as if incorporated herein.
3.
 - a) No purchases shall be made for personal items for members of Council appointed officers or employees of the Municipality except when authorized by Municipal Council.
 - b) No purchases shall be made which are covered by the Municipal Conflict of Interest Act, without compliance with that Act.
 - c) Members of Council or of a Committee, appointed officers and employees of the Municipality are expressly prohibited from accepting, directly or indirectly, from any person, company or corporation to which any purchase order or contract is, or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the sole use and benefit of the Municipality.
4. Acceptance by resolution of Council of any quote or tender requiring Council approval shall be sufficient authority for the Department Head or his/her designate to execute a contract with the successful bidder.
5. In the event that any court should adjudge that any Section or Sections of the By-law is not valid for any cause, such Section or Sections shall be severable from the remainder of the by-law to the same extent as if the offending Section or Sections had not been included therein.
6. Any or all other by-laws or portions thereof or any resolutions of the Council of the Corporation of the Municipality of Brighton, contrary hereto or inconsistent herewith, shall be and are hereby repealed.
7. That this By-law shall take effect upon final passing hereof.

**READ A FIRST, SECOND AND A THIRD TIME AND FINALLY PASSED THIS 6th
DAY OF APRIL, 2006.**

Mayor, Christine Herrington

C.A.O. /Clerk Bruce Davis

THE CORPORATION OF THE MUNICIPALITY OF BRIGHTON

SCHEDULE "A"

TO BY-LAW NO. 371-2006

PURCHASING POLICY

1. PURPOSE:

To provide the basic minimum requirements to ensure that quotations are obtained, competitive purchasing is adhered to, and to continue to ensure that the Municipality obtains the best value, goods and services at the most economical cost.

2. PRINCIPLES:

To purchase and supply the proper equipment, materials, supplies and services when needed, with the Right Quality, the Right Quantity, at the Right Price, from the Right Source and at the Right Time in a manner that is fair and equitable to all.

3. RESPONSIBILITIES:

3.1 The Department Head or his/her designate and the Treasurer or his/her designate, are responsible for ensuring that the procedures of the Purchasing Policy as detailed in Schedule "A" and "B" are adhered to.

3.2 In the event of exceptional circumstances justifying a departure from policy, this purchasing policy may be overridden by Council in the event Council determines it to be appropriate and in the best interests of the Municipality

4. REQUIREMENTS:

4.1 Prior to the approval of the current budget, a department may incur normal operating expenditures.

4.2 Council approved Departmental budget appropriations for expenditures shall be sufficient authorization for a Department to proceed with the purchase of supplies and materials or with work, subject to those limitations as established herein.

4.3 All purchasing will be conducted by the Department Head or his/her designate for items as described in Schedule "A"

4.4 When a designated Department Head or his/her designate negotiates a contract price with a vendor for the supply of specific goods or services, all departments shall purchase those goods or services based on that agreement when-ever possible. If an individual within a Department knows of or has obtained a more competitive price for the same goods or services, the C.A.O. or Directors shall be notified.

4.5 The Department Head or his/her designate, will ensure that the purchase of goods and services is done on a competitive basis, in keeping with accepted public purchasing practices and procedures, and in accordance with applicable laws of the Province of Ontario, the Government of Canada and regulations made pursuant to this By-law.

4.6 A Department Head or his/her designate may make purchases up to \$1,000.00 without C.A.O. or Council approval

4.7 A Department Head will have delegated authority from Council to enter into contracts from between \$1,000.00 and \$5,000.00 where the contracted work was part of the originally approved budget submission and where, three (3) quotes have been obtained. The supplier shall be selected upon terms and conditions as determined by the Department Head.

- 4.8 The Chief Administrative Officer will have delegated authority from Council to award contracts from between \$5,000.00 and \$25,000.00 where the contracted work was part of the originally approved budget submission. The Department Head or designate will obtain a minimum of 3 written quotes. These quotes will be reviewed by the CAO and Department Head, the Treasurer will attest to the availability of funds, and the CAO will award a contract based on the agreed to terms and conditions
- 4.9 The Treasurer will report to Council, on a quarterly basis, all contracts awarded through the CAO's delegation of authority
- 4.10 Where the contracted work in sections 4.7 and 4.8 were not part of the originally approved budget submission, Council approval will be required under the terms and conditions within this by-law.
- 4.8.5 For purchases in excess of \$25,000.00 tenders shall be issued in accordance with procedures as set out in this by-law
- 4.8.6 Notwithstanding the foregoing, the Council or Committee may direct through resolution that the option of making a request for proposals may be used as an alternate method for purchasing specific services
- 4.8.7 When informal quotes are obtained, whether telephone or written, there is no requirement to follow the tender procedure, and terms set out in Schedule "B". Negotiations between the Department Head or his/her designate with the Vendors supplying quotes shall be permitted in an attempt to obtain the lowest possible quote.
- 4.8.8 A copy of all written or telephone quotes shall be recorded and filed for reference if required
- 4.14 Notwithstanding the requirements for purchasing in accordance with the provisions contained herein the following items of expenditure and/or purchase do not require the issuance of a purchase requisition or purchase order.
- 4.14.1 Recurring utility charges that are charged to budget accounts for:
a) natural gas
b) hydro
c) sewer and water
d) telephone
- 4.14.2 Payments made in accordance with employee and payroll benefits, including temporary help agency employees, as authorized by Council
- 4.14.3 Professional fees as authorized by Council for:
a) consultants
b) external auditors
c) legal services
d) Ontario Land Surveyors and property appraisers
- 4.14.4 Specific payments as authorized by Council for:
a) land purchases
b) expropriations
c) insurance
- 4.14.5 Membership fees
- 4.14.6 Subscriptions
- 4.14.7 Travel expenses and mileage
- 4.14.8 Inter-department charges
- 4.15 Purchases may be made from a single source without quotations or tenders where:
- 4.15.1 Due to market conditions and in the judgment of the Department or his/her designate, goods are in short supply

- 4.15.2 There is only one source of supply for the goods and service
- 4.15.3 The compatibility of a purchase with existing equipment, facilities or services is a paramount consideration and that purchase must be made from a single source.
- 4.15.4 An item or service is purchases for testing or trial use
- 4.15.5 The Municipality purchases supplies for resale
- 4.15.6 A product is leased or rented by the Municipality with or without a credit purchase option, and such purchase option would be beneficial to the Municipality
- 4.15.7 The consideration for a purchase is to be paid by a third party and that third party agrees to or designates the contractor
- 4.15.8 A situation creates immediate and serious need, which may not be reasonably met by any other procedure
- 4.15.9 Lack of supplies or services may adversely affect the functioning of the Municipality, threaten public or private property or the environment, or jeopardize the health or safety of the public.
- 4.15.10 It is necessary to arrange interim contractual arrangements following the expiration or breach of a contract, or the receipt of unacceptable or noncompetitive bids
- 4.15.11 Where supplies are offered for sale by tender, auction or negotiation, such purchase shall be deemed to be a single source purchase and the authority having jurisdiction to award may authorize the submission of a bid or the conduct of negotiations where Council determines the purchase to be clearly in the Municipality's interest.
- 4.15.12 If any of the above conditions exist, the reason shall be stated on the Purchase Order
- 4.16 Awards may be made to the lowest bidder who has complied with the terms and conditions of the tender, all other factors being equal. However, in addition to price, consideration of factors as set out below may result in the acceptance of a bid other than the lowest bid.
 - 4.16.1 Ability and experience to perform in accordance with the Terms of the Invitation
 - 4.16.2 Record of past performance with the Municipality
 - 4.16.3 Past performance with other municipalities
 - 4.16.4 Financial and technical resources
 - 4.16.5 Knowledge of the Municipality operations, systems and services
 - 4.16.6 Compatibility with other goods and services of the Municipality
 - 4.16.7 The percentage of local content, including supplies, materials and sub-contractors from the Municipality
 - 4.16.8 Any other factors, which may be set out in the Call for Tenders for other documentation.
 - 4.16.9 Any other factors, including a scoring system which may be used by the Department in evaluating bids received.

THE CORPORATION OF THE MUNICIPALITY OF BRIGHTON

SCHEDULE “B”

TO BY-LAW NO. 371-2006

TENDER/INVITATION TO QUOTE PROCESS

1. THE TENDER DOCUMENT:

- 1.1 The tender document and specifications shall be prepared by the Department Head or his/her designate using standard tender documentation. All tender packages must be approved by the Department Head prior to release to the public.
- 1.2 All tender documents will clearly define any pre-qualifications system if used and any evaluation or scoring system to be used.
- 1.3 Tender documents prepared by outside sources, ie. Consultants must be reviewed by the Department Head for compliance with the Municipality’s Policies and Procedures before release to the public.

1.4 HEALTH AND SAFETY:

- 1.4.1 Prior to calling a tender, all health and safety considerations shall be addressed.
- 1.4.2 Contractors providing goods or services to the Municipality of Brighton must comply with and be held accountable for meeting the requirements of the Occupational Health and Safety Act.
- 1.4.3 The Municipality’s Health & Safety Policy requirements, as provided by the Municipality’s Health & Safety Committee, may be included as part of each tender package.

1.5 PROVINCIAL REQUIREMENTS:

- 1.5.1 The successful candidate will be required to show proof of registration with the WSIB and compliance with the Provincial Retail Sales Tax requirements before the final awarding of the contract takes place.

1.6 PROOF OF CERTIFICATION AND INSURANCE:

- 1.6.1 The successful contractor must provide the Municipality of Brighton with a certificate of insurance showing a liability coverage equivalent to the amount of insurance requested in any Tender or quote or at least one million dollars. The Municipality reserves the right to collect any other proof of licensing or certification as deemed necessary.

1.7 CALLING OF TENDERS:

- 1.7.1 The calling of tenders shall be the responsibility of the Department Head.
- 1.7.2 Tenders should be advertised in local papers and where appropriate, in at least one major trade publication. This may be varied at the discretion of the responsible Committee or by Council
- 1.7.3 Advertisements should appear in the press at least once, and sufficient time between advertising and closing shall be allowed to permit the bidders to obtain the tender documents, examine the site if applicable, complete and submit the tender. It is recommended that at least two weeks be permitted for a Tender or Proposal submission after the advertisement has been published.
- 1.7.4 A numbering and tracking system will be maintained by the Municipality for all tenders issued for the Municipality.

- 1.7.5 When it becomes necessary to revise, delete, substitute or add to the tender documents for a tender under call, the Department Head shall approve the issuance of an addendum.
- 1.7.6 A copy of each addendum shall be forwarded by fax and mail, by the Department Head or his/her designate, to all persons who took tender documents, and a copy shall be attached to all undistributed tender documents
- 1.7.7 If the addendum is prepared too late to allow notification by mail prior to the closing time, in addition to faxing the addendum, each prospective bidder shall be telephoned by the Department Head or his/her designate to advise of the addendum and the closing date may be extended. In all cases, when an addendum is issued, it is desirable to give prior notice of the mailing to the prospective bidders by telephone.
- 1.7.8 When a tender is received, the envelope shall be date and time stamped and initialed by the Clerk receiving the tender.
- 1.7.9 All tenders received shall be kept in a safe and secure location.
- 1.7.10 Tenders will not be unsealed until the official tender opening date and time.
- 1.7.11 The number of bids received and the names of bidders are confidential, and shall not be divulged prior to the tender opening.
- 1.7.12 Late tenders (those received after the tender has closed) shall be date and time stamped and initialed by the receiver and the bidder. The tender shall then be returned to the bidder unopened. Those tenders returned by mail must be accompanied by a covering letter stating that the tender could not be accepted due to late arrival. The return of late tenders will be the responsibility of the Department Head or his/her designate.
- 1.7.13 If any of the above noted requirements are not fulfilled, the tender submission must be rejected.

1.8 **WITHDRAWAL OF TENDERS:**

- 1.8.1 The bidder who has submitted a tender may request that the tender be withdrawn. Adjustments or corrections to a tender already submitted will not be allowed. The withdrawal will be allowed if the request is made by mail, fax, e-mail or in person, directly to the Department Head or his/her designate, before the closing time. Telephone requests shall not be considered.
- 1.8.2 When a withdrawal request is made in person, the requester shall sign a withdrawal form confirming the request. When requests are made by mail, fax or e-mail, they shall be confirmed by telephone prior to acceptance.
- 1.8.3 Tenders confirmed as withdrawn prior to closing time shall be returned unopened.
- 1.8.4 The withdrawal of a tender does not disqualify a bidder from submitting another tender on the same contract.
- 1.8.5 Withdrawal requests received after the tender closing time will not be allowed.
- 1.8.6 When several contracts are opened at the same tender opening, at the conclusion of the opening of one contract and prior to the opening of another, the low bidder may withdraw any of his remaining tenders. Tenders withdrawn under these procedures cannot be reinstated even if, following the tender checking procedure, it is found that the bidder was not the low tender.

1.9 **TENDER OPENING:**

- 1.9.1 Tender openings shall take place as soon as practical after the closing time.
- 1.9.2 Tender openings shall be conducted in public, and shall be conducted by the Department Head or his/her designate in the presence of:

The Mayor or Member of Council or Committee Chair as designated by the Mayor.

AND any one of the following:

Director of Finance or his/her designate, Director of Public Works or his/her designate, Chief Administrative Officer or his/her designate.

- 1.9.3 When two or more tenders for different items are to be opened at the same time, a draw shall be held to determine the order of opening.
- 1.9.4 If required information is NOT found enclosed with a tender, or if items are missing from the tender (e.g. the bid deposit cheque), the tender shall be considered to be an "incomplete bid". Such tenders shall be noted in the tender record as an incomplete bid but shall be read out in the normal fashion. The tender shall then be referred to the Department Head or his/her designate for a decision as to acceptance or rejection.
- 1.9.5 When tenders have been opened and sorted, the Department Head or his/her designate shall check the number of tenders opened to ensure that all tenders received are accounted for. If a discrepancy occurs, the tender opening proceedings shall be delayed until all tenders have been accounted for.
- 1.9.6 When all tenders have been accounted for, the Department Head or his/her designate shall announce for each contract the contract name, number, the number of bids received, the name of the bidders and their total bid amounts.
- 1.9.7 After the bid amounts have been read, the Department Head or his/her designate shall prepare, in order of bid amount from low to high, a list of bidders, tender amount, deposit cheque amount, and a notation if it is an incomplete bid.
- 1.9.8 When all tenders for a contract have been read out and the Department Head or his/her designate has recorded the information, he/she shall close off the Record of Tenders Opened by drawing a diagonal line in the unused spaces under the information listed and sign the form.
- 1.9.9 During the reading out of tenders, the Department Head or his/her designate, shall check for more than one tender under the same name. If two tenders for the same contract are received in the same bidder's name and are both properly submitted the lower tender amount shall be considered the intended bid and shall be processed within the normal manner.
- 1.9.10 Tender deposits, where required, shall be in the form of cash, money order, certified cheque or approved letter of credit. The Director of Finance or his/her designate shall hold securities in safekeeping. Deposits shall be refunded, without interest, and securities shall be returned upon successful completion of the contract.
- 1.9.11 Following tender opening, the Department Head or his/her designate shall return any tenders and deposit cheques that were withdrawn during the opening to the bidder by regular mail or be personal delivery, unless otherwise stated. If a tender and deposit cheques are returned by hand, a letter acknowledging receipt must be signed by the bidder.
- 1.10 **CHECKING TENDERS:**
 - 1.10.1 All tenders shall first be checked by the Department Head or his/her designate to ensure that;
 - a) The bidder's name and tender amount shown on the Record of Tender Opening are correct;
 - b) The tender form is signed as necessary, sealed or witnessed;
 - c) The correct tender form has been used;
 - d) Each tender envelope is time and date stamped prior to the contract closing time;
 - e) The tender deposit is sufficient and in an acceptable form;
 - f) Each item on the tender has been bid;
 - g) All extensions and totals for each tender are correct. If an extension or total is incorrect, the checker shall cross out the incorrect figure, enter the correct figure in red and initial the entry. The checker shall initial each tender adjacent to the total certifying that it has been checked and is correct;
 - h) The tender is free of restrictions or alterations; and
 - i) All other tendering requirements have been met.

- 1.10.2 Following completion of preliminary checking procedures, (article 1.10.1 a – i) bidding infractions shall be noted on the record of Tenders Opened. This notation must clearly state the reason the bid is noted as incomplete.
- 1.10.3 In the event that a bid does not contain or comply with a mandatory item, then the bid must be rejected. If there is an error or incomplete material on any other portion of the tender, then the decision as to whether or not to accept or reject the tender and disqualify it shall be based upon the following considerations;
- a) Is the intention of the bidder clear?
 - b) Has the bidder made a conscientious attempt to comply with the tender requirements?
 - c) Is it fair to all bidders to accept the tender or has the bidder gained an advantage?
- 1.10.4 Extreme care must be exercised by the Department Head or his/her designate to ensure that Incomplete Bids are handled in a manner which is fair and equal to other bidders as well as to the public.
- 1.10.5 When an incomplete bid is rejected, the amount of the tender shall not be recorded on the Record of Tenders Opened, but the words “Rejected Bid” shall be recorded instead.
- 1.10.6 The Department Head or his/her designate shall prepare a recommendation to the appropriate Committee or to Council. In his/her recommendation he/she shall include all bids that were incomplete and he/she shall recommend acceptance or rejection of any incomplete bid, and recommend the award to the successful bidder, or if necessary, the cancellation of the contract.
- 1.11 **TENDER AWARD:**
- 1.11.1 The appropriate Committee or Council shall review the Department Head’s or his/her designates recommendation and make an award. Council must ratify the committee recommendation. In the event that the Committee or Council deems that it would be beneficial to listen to delegations from bidders, every bidder must be given an equal opportunity to present themselves. Individual written invitations, stating time, date and purpose of the presentation, must be extended to each bidder.
- 1.11.2 Awards may be made to the lowest bidder who has complied with the terms and conditions of the tender, all other factors being equal. However, in addition to price, consideration of factors as set out below may result in the acceptance of a bid other than the lowest bid.
- a) Ability and experience to perform in accordance with the Terms of the Invitation
 - b) Record of past performance with the Municipality
 - c) Past performance with other municipalities
 - d) Financial and technical resources
 - e) Knowledge of the Municipality’s operations, systems and services
 - f) Compatibility with other goods and services of the Municipality
 - g) The percentage of local content, including supplies, materials and sub-contractors from the Municipality
 - h) Any other factors, which may be set out in the Call for Tenders for other documentation.
- 1.11.3 In the event that more than one bidder has submitted a tender in the same amount, the Committee shall make its decision based on the merit of the tender (i.e. including such factors as time for completion and previous performance of the bidder). If the merit for each tender is equal, then the tender to be accepted shall be decided by means of a draw. The names of the tied bidders shall be placed in a container and the tender to be awarded shall be drawn by a member of council. The time and location of the draw shall be set by the Department Head or his/her designate, and the bidders shall be notified in order that they may be present.
- 1.11.4 Upon the award of the contract, the Purchasing Clerk or his/her designate shall immediately send a Notification of Acceptance to the successful bidder advising him/her that his/her tender has been accepted and advising that documents will follow for execution from the appropriate Department Head or his/her designate.
- 1.11.5 When the contract has been prepared by the Department Head or his/her designate and submitted to the contractor for execution with a copy sent to the Purchasing Clerk. The contractor will be allowed ten (10) working days between the date of mailing the

agreement and the date the executed contract must be returned to the Department Head or his/her designate. A copy of the signed agreement will be forwarded to the Purchasing Clerk.

- 1.11.6 As soon as the contracts, bonds, et cetera, of the awarded bidder have been signed and found acceptable to the Department Head or his/her designate, the deposit cheque of the successful bidder and the second lowest responsible bidder shall be returned by mail.
- 1.11.7 If the contract has been awarded and the successful bidder fails to provide a contract bond, cash or other acceptable collateral within the specified time, the Department Head, or his/her designate, in consultation with the Purchasing Clerk or his/her designate may grant additional time to fulfill the necessary requirements or may recommend one of the following:
 - a) That the contract shall be awarded to the next best responsible bidder;
 - b) That the contract shall be cancelled.
- 1.11.8 In either of the above cases, the deposit cheque of the successful bidder shall be forfeited. If the contract is to be awarded to the next lowest responsible bidder, his/her deposit cheque shall be retained until he/she has actually completed the contract to the satisfaction of the Department Head or his/her designate.
- 1.11.9 If the next lowest responsible bidder fails, or declines to execute the contract if awarded to him/her, his/her deposit shall also be forfeited.

2. **DEFINITIONS:**

2.1 FORMAL INVITATION TO QUOTE/REQUESTS FOR QUOTATION:

May be used for purchases in excess of \$5,000.00

The Invitation to Quote or Request for Quotation is a written bid document which is in a specified form containing terms and conditions approved by the Municipality and which is received from a supplier or contractor in response to an invitation to bid/request for quotation, for the provision of a particular good and/or service. Specifications for such requests shall be prepared by the Department Head or his/her designate and made available to suppliers through the Purchasing Clerk or his/her designate.

2.2 INFORMAL REQUEST FOR QUOTATION:

May be used for purchases up to \$5,000.00

The market is canvassed for the best price to supply a good or service to the Municipality. Information may be gathered by any means ie. telephone, fax etc. Summary results of information gathered will be included as part of the information shown on the purchase order when issued.

2.3 REQUEST FOR PROPOSAL:

When there are numerous methods by which a project result could be achieved, an RFP can be considered. An RFP is usually (but not necessarily) publicly advertised. It is a system which provided for both objective and justifiable reasons for its choices.

An RFP is a formal document which shall be prepared by the Department Head or his/her designate in conjunction with the Treasurer or his/her designate and made available to potential suppliers.

The project is described in as much or as little detail as desired to communicate the "what," "when" and "why" but not the "how" to get the desired results. It may propose a preferred method of completing the work or it may not. Proposals from all interested parties are received up to a fixed time and date but not thereafter.

The law which governs RFP's is the same as the law governing Tenders. The procedures as set out herein for the tendering process shall apply.

MUNICIPALITY OF BRIGHTON
CHIEF ADMINISTRATIVE OFFICER
DELEGATION OF AUTHORITY

Date

Department

Description of Work

Indication of Competitive Process

Scope of work in originally approved budget

Availability of Funds

Recommendation

Treasurer - Availability of Funds (purchase order)

Department Head – recommendation of contract

Chief Administrative Officer – Approval of contracted work