



# Staff Report

## Finance and IT Services

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**Report To:** Committee of the Whole  
**Meeting Date:** March 18, 2019  
**Report Number:** FAF.19.040  
**Subject:** Updates to POL.COR.07.05 Purchasing of Goods and Services Policy  
**Prepared by:** Serena Wilgress, Manager of Purchasing and Risk Management

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### A. Recommendations

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THAT Council receive Staff Report FAF.19.040 entitled “Updates to POL.COR.07.05 Purchasing of Goods and Services Policy”;

AND THAT Council direct staff to initiate the public consultation process including the required public meeting for consideration of the Purchasing of Goods & Services Policy.

### B. Overview

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Minor revisions are required to bring the Town’s Purchasing Policy into compliance with regard to accepting electronic bid submissions.

### C. Background

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In January 2018, the Town moved to posting its bids on [thebluemountains.bidsandtenders.ca](http://thebluemountains.bidsandtenders.ca). The first phase involved the posting of bid documents in an electronic format for downloading by registered bidders.

The second phase will involve the receiving of the bid submissions through the bidding website. It is anticipated that this phase will occur before the end of April 2019.

There will be a further stage that will involve some additional training for staff on evaluating submissions electronically. This phase is anticipated to take place later this summer.

### D. Analysis

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In January 2018, Town staff began posting all bid opportunities in an electronic format for downloading by interested and registered bidders.

In the bidding system, only registered bidders are notified if an addendum has been posted for any bid opportunity. All bid submissions for formal procurement are currently required to be in paper format only.

The next phase of electronic bidding will allow vendors to submit their bids in an electronic format only. There are some changes required to the Purchasing of Goods and Services Policy as they relate to bid irregularities. The bidding system will automatically advise bidders of any addendum that are posted by the Town. If a vendor has submitted a bid, and an addendum is issued, the bidder will be notified that their bid is no longer current and they will need to acknowledge the most recent addendum and resubmit their bid.

There will no longer be a public opening of Tender submissions when the bids are submitted electronically. Following the close of the bids, the Manager of Purchasing or designate, will log into the bidding system and unseal Tender submissions. By unsealing the Tender submission, the bid opportunity will show with unofficial bid results. Following the unsealing of the bid opportunity, Staff will review all submissions to determine compliance with the bid requirements. Official Award results will only be posted following award of the bid opportunity in accordance with the Purchasing of Goods & Services Policy.

Requests for Proposals will still only acknowledge that a proponent has submitted a proposal. No dollar amounts will be revealed until the Official award results are posted, following evaluation of the submissions by the evaluation team.

Staff are currently working at updating all standard documents to ensure that appropriate wording is in place to ensure compliance with this policy and electronic bidding practices.

The Town reserves the right to determine if a bid will require a paper or electronic submission. In order to ensure that both types of bids are covered, there are two (2) schedules appended to the Purchasing of Goods and Services Policy; one for paper bids and one for electronic bids. The schedules outline Bid Irregularities pertinent to each type of bid submission.

Additionally, clauses that were only in the Purchasing of Goods & Services Procedures, approved by Senior Management Team, have now been included in the Purchasing of Goods & Services Policy.

The proposed timeline for implementation is estimated as follows:

March 18, 2019 – Report to Committee of the Whole outlining revisions to be made  
April 1, 2019 – Council Meeting to confirm March 18, 2019 direction  
April 29, 2019 – Public Meeting to receive comments  
May 22, 2019 – Staff Report – Follow-up to comments from Public Meeting  
June 3, 2019 – Proposed By-law considered by Council

## **E. The Blue Mountains' Strategic Plan**

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Goal #4: Promote a Culture of Organizational and Operational Excellence  
Objective #4: To Be a Financially Responsible Organization

## **F. Environmental Impacts**

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None

## **G. Financial Impact**

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None

## **H. In consultation with**

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Ruth Prince, Director of Finance and IT Services

## **I. Public Engagement**

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The topic of this Staff Report will be subject to a Public Meeting in accordance with the proposed timeline within this Staff Report.

## **J. Attached**

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1. Purchasing of Goods and Services Policy POL.COR.07.05
2. Draft Updated Purchasing of Goods and Services Policy POL.COR.07.05
3. Draft Notice of Public meeting – Proposed Updates to Purchasing and Services Policy

Respectfully submitted,

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Serena Wilgress  
Manager of Purchasing and Risk Management

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Ruth Prince  
Director of Finance and IT Services

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# Purchasing of Goods and Services Policy

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POL.COR.07.05

**Policy Type:** Corporate Policy (Approved by Council)  
**Date Approved:** November 28, 2016  
**Revisions Approved:** July 9, 2018  
**Department:** Finance and IT Services  
**Staff Report:** FAF.16.102, FAF. 18.108  
**By-Law No.:** 2016-69, 2018-43

## Policy Statement

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The goals of this policy are:

- I. To promote and maintain the integrity of the purchasing process;
- II. To obtain the best value by ensuring quality, efficiency and effectiveness.

## Purpose

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This policy will ensure openness, accountability and transparency of Town purchasing while protecting the financial best interest of the Town of The Blue Mountains.

This policy will outline the guiding principles of public procurement and the approach that the Town of The Blue Mountains and its operating departments will take when procuring goods and services. The detailed purchasing procedures shall be consulted prior to proceeding with any procurement.

The Town shall:

- Encourage competition amongst suppliers by using an open, transparent and fair process;
- Assist and provide direction to Staff, Vendors and Council relating to the procurement process;
- Where practicable, provide accessibility for persons with disabilities when purchasing goods, services and construction;
- Be environmentally conscious through the purchase of goods and services;

- Strive to ensure ethical purchasing practices are used by all staff.

## **Application**

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This policy applies to all Staff, Council and Boards of Town of The Blue Mountains with respect to the Town's procurement activities.

## **Procedures**

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The Manager of Purchasing shall have the authority to develop procedures to implement this policy in association with the Senior Management Team.

The Purchasing Procedures will be approved by the Senior Management Team and are to be used as instruction for staff when purchasing goods or services in compliance with this policy.

The Manager of Purchasing will administer this policy.

Any question involving the meaning or application of this policy is to be submitted to the Manager of Purchasing who will resolve the question.

No contract or purchase shall be divided to avoid any requirements of this policy.

## **Procurement Methods**

All purchase of goods, services and construction shall be undertaken utilizing one of the following methods of procurement, using standardized documents.

Where long term, valued relationships exist with material, equipment or support services providers, they should be examined periodically to ensure that the Town is getting the best value when purchasing.

### **1. Informal Processes**

Informal processes are to be completed by the user department and shall include direct purchase or Informal Quotations. It will also include the Request for Quote process where Purchasing will assist in the document creation with the user department.

### **2. Direct Purchasing**

Direct purchase, as described below, may be used when:

- 2.1. The dollar value of the item is equal to or less than \$5,000.
- 2.2. The item is not covered under a Blanket Order Contract.

### **3. Request for Quotation (RFQ)**

Request for Quotation procedures will be used when:

- 3.1. The cost of the item is between \$5,000 and \$24,999.
- 3.2. The ability exists to detail what is being purchased.
- 3.3. Document title will be consecutively numbered based on the Town's numbering and naming convention. User division shall request such number.
- 3.4. Best Value for the Town can be achieved by an Award selection made on the basis of the lowest compliant bid that meets specifications.

### **4. Formal Processes**

Formal processes will be issued by Purchasing and shall include Request for Tender or Request for Proposal.

### **5. Request for Tender (RFT)**

RFT procedures shall be used when:

- 5.1. The cost of the item is greater than \$25,000.
- 5.2. The ability exists to detail what is being purchased.
- 5.3. Best Value for the Town can be achieved by an Award selection made on the basis of the lowest compliant bid that meets minimum specifications

### **6. Request for Proposal (RFP)**

Request for Proposal procedures shall be used when:

- 6.1. The requirement is best described in a general performance specification.
- 6.2. Innovative solutions are sought.
- 6.3. The Award selection will be made based on a fully disclosed evaluation method involving a combination of mandatory and desirable requirements.

### **7. Other Processes**

### **8. Blanket Order Contracts**

Blanket Order Contracts occur as a result of a previous competitive bid, which establishes the successful bidder as the preferred source for a product or service over a specific term.

## **9. Rotational Rosters**

A Rotational Roster is the result of a competitive bidding process, which prequalifies vendors to be placed on a list where they will be provided an equal opportunity to perform work for the Town as it becomes available.

## **10. Unsolicited Proposals**

Unsolicited bids received by the Town shall be reviewed by the respective Department Head and Purchasing. Unsolicited proposals must be in writing detailing information on a product or service that may provide the Town with significant value or savings.

## **11. Cooperative Purchasing**

The Manager of Purchasing and Department Head(s) are hereby authorized to participate in cooperative purchasing arrangements with other municipalities, counties/regions, associations, local boards and public agencies within the Province. The procurement policies or procurement by-law of the host agency will apply upon the Manager of Purchasing and Department Head(s) satisfying themselves that the host agency will be proceeding to the open market to obtain competitive pricing. Award approvals of all Co-operative Purchasing contracts shall be in accordance with the Purchasing Procedures. Notice of Participation in cooperative purchases will be posted annually to the Town's website in accordance with the requirements of CETA and CFTA.

## **12. Sole and Single Sourcing**

Sole Sourcing is a method of procurement whereby a purchase order is issued or contract awarded without a competitive bidding process due to the fact that the supplier is the only source of supply for the required goods or services.

Single Sourcing is a method of procurement whereby there is more than one vendor able to supply and a purchase order is issued or contract awarded without a competitive bidding process.

The use of Sole and Single Sourcing with a particular vendor exceeding \$25,000 must be reported to Council. Any single or sole sourcing with an amount between \$5000 and \$24,999 must be reported to Manager of Purchasing by the applicable Director. In order for a division to sole or single source for goods or services exceeding \$25,000, an operating strategy must be presented with Purchasing input and approved by Council, outlining the rationale. Input must be sought from the Manager of Purchasing to ensure the purchasing principles in the Town's Procedures are taken into consideration and risk to the Town is minimized.

## **13. Negotiation**

Negotiation may only be used under the following circumstances:

- 13.1. Those outlined above within Sole and Single Sourcing.
- 13.2. As a result of an RFP process, if required.
- 13.3. With respect to RFT's, and RFQ's, the Town may enter into negotiations with the lowest compliant bidder if the price bid is over the budgeted amount for the project. Should the Town be unable to reach an agreement with the lowest compliant bidder, the Town reserves the right to enter into negotiations with the next lowest compliant bidder, to cancel the bid opportunity or to present a report to Council whichever is deemed to be in the best interest of the Town.

It is the responsibility of Purchasing to ensure that all competitive bidding options have been considered prior to the negotiation method being utilized.

#### **14. Procurement in Emergencies**

Notwithstanding the provisions of this by-law, an emergency purchase shall be made when an event occurs that is determined by the Mayor, the C.A.O. and/or Department Head to be a threat. Where in the above opinion an emergency has occurred, non-competitive procurement or negotiation methods may be utilized.

#### **15. Non-Competitive Purchases**

Under the direction and control of Purchasing, the requirement for competitive bid solicitation for goods and services may be waived under the authority of this Policy and replaced with Negotiations.

#### **16. Request for Expression of Interest**

Requests for Expression of Interest may be issued to prequalify vendors for various projects or purchases or to obtain information on the availability and interest of suppliers of any goods or services. Requests for Expression of Interest may or may not result in the development of a list of available suppliers.

#### **17. Request for Pre-Qualification (RFPQ)**

RFPQ may be issued to prequalify vendors for various projects or purchases. The purpose of an RFPQ is to determine whether the qualifications of a bidder, as required by the Town, are at a level that will allow participation in a subsequent bidding opportunity that takes place as a direct result of the Request for Pre-Qualification.

#### **18. Request for Information (RFI)**

An RFI may be issued by Managers/Purchasing to provide staff with specifications for future use.



An RFI may be issued in advance of a formal bid process to assist in the development of a more definitive set of terms and conditions, scope of work/service and the selection of qualified Vendors.

An RFI may or may not lead to a formal bid process.

## **19. Goods and Services Exempt From Procurement Policy**

The purchasing methods described in this Procedure do not apply to the following Goods and Services:

- a) Training and Education
- b) Registration, accommodation and tuition fees for conferences, conventions, courses and seminars
- c) Magazines, books and periodicals
- d) Memberships
- e) Staff development or staff workshops
- f) Refundable Employee/Councillor Expenses
- g) Advances
- h) Meal allowances
- i) Travel (fuel, accommodation etc.)
- j) Ongoing maintenance for existing computer hardware and software
- k) Employer's General Expenses
- l) Payroll Deduction Remittances
- m) Medicals
- n) Licenses
- o) Debenture Payments
- p) Grants to Agencies
- q) Damage Claims
- r) Tax Remittances
- s) Insurance Premium payments
- t) Refunds to property owners (property tax, building permit, entrance permit, etc.)
- u) Professional and Special Services up to \$100,000 including:
  - i. Committee fees, witness fees
  - ii. Realty services regarding lease, acquisition, demolition, sale, disposal or appraisal of land
  - iii. Advertising services required in radio, television, newspaper or magazines
  - iv. Bailiff or collection agencies
  - v. Freight charges
  - vi. Utilities
- v) Performance / Artist's Fees
- w) Employee Group Benefits
- x) All legal services and fees
- y) Professional and Special Services exceeding \$100,000 must be procured formally.

## **20. Authorizations**

Council has the ultimate authority for all expenditures. Council provides the authority to Staff for the initiation and completion of procurement processes for goods, services and construction through the authorization of annual budgets or resolutions.

## **21. Council Approval Required**

Despite any other provisions of this Policy, the following procurements, over \$24,999, excluding taxes, are subject to prior Council approval:

- 21.1. Any contract requiring approval from the Ontario Municipal Board
- 21.2. Any acquisition of goods or services that is not already approved in the current year's budget, such as items requiring pre-budget approval or post-budget amendments, must be reported to Council in order to have the expenditure authorized via resolution
- 21.3. Where the net revenue amount proposed for acceptance is lower than the Council approved budget
- 21.4. Any contract where the award is not being recommended to the lowest compliant bidder, with the exception of Request for Proposals
- 21.5. Any contract anticipated to be financed by debentures

Purchasing will provide a report to Council on a monthly basis outlining all awards that fall within Staff Authorized Awards in excess of \$25,000.

## **22. Authority to Reallocate Approved Budget Funds**

To ensure proper expenditure management and budget accountability, each Director is responsible for ensuring that all purchases remain within the Department's approved operating budget or approved capital project budget, unless otherwise provided for in this policy.

Reallocation of funds between Operating Budgets and Capital Budgets is not permitted under any circumstances.

In order to allow purchases to proceed which exceed the approved budget, a Director shall have the authority to reallocate funds, without exceeding the aggregate budget within their control, under the following conditions:

### **Operating Budget**

- 22.1. The shortfall for the purchase of the goods or service is less than \$10,000;
- 22.2. All changes must be one-time and shall not affect the base budget;

- 22.3. Reallocations may only occur within or between supplies and services accounts;
- 22.4. General scope of work or service delivery method cannot be changed;
- 22.5. The funding source must be the same for all accounts affected by the reallocation.

**Capital Budget**

- 22.6. The shortfall cannot exceed 20% of the project budget to a maximum of \$75,000;
- 22.7. General scope of work or service delivery method cannot be changed;
- 22.8. If reallocating funds from a capital project/component, the capital project/component in which funds are being transferred from must already be an Awarded project/component;
- 22.9. Revised Bid Award Form must be completed when funds are reallocated;
- 22.10. The funding source must be the same for all accounts affected by the reallocation.

All other budget over-runs must be approved by Council before Award is made.

**23. Authority to Award**

This section outlines the Authority to Award a Bid in accordance with the intent of the purchasing methods outlined in this policy.

The full amount, excluding applicable net taxes, for the supply of Goods, Services or Construction shall be considered when determining the Authority to Award.

<b>Authority to Award</b>	<b>Dollar Value</b>	<b>Method of Procurement if Formal or Informal</b>	<b>Method of Award</b>
Council	Unlimited	n/a	Council Resolution
CAO, Director and Manager of Purchasing	\$250,000 or greater	Tender or RFP	Bid Award Form
Director and Manager of Purchasing	\$25,000 up to but not including \$250,000	Tender or RFP	Bid Award Form
Manager or designate	Less than \$25,000	Direct Purchase	Bid Award Form (if no budget reallocation)

## 24. Authority for Payment

Authority for Payment in this schedule relates to payments of amounts contained in approved budgets or by Resolution only. During scheduled absences, Directors are able to delegate signing authority to selected individual(s) with a written notice to the Director of Finance.

Regulatory payments (payroll deductions etc.) are excluded from this schedule.

The numbers in this table are maximums. Directors have the right to lower these numbers at their discretion.

Authority limits for payment are as follows:

POSITION	DETAIL	LIMIT
Chief Administrative Officer	All expenditures	As per Council approved budget
Director / Fire Chief / Chief Librarian	All expenditures	As per Council approved budget
Supervisory Staff as designated by Director	General Purposes – day-to-day departmental requirements	\$100,000
Senior Staff as designated by Director	General Purposes – day-to-day departmental requirements	\$25,000
General Staff as designated by Director	General Purposes – day-to-day departmental requirements	\$5,000

## 25. Irregularities Contained in Bids

The following list of irregularities should not be considered all inclusive. The Purchasing Manager and, as may be warranted, in consultation with any or a selection of the following, respective departmental staff, C.A.O. and/or the Town’s Solicitor, shall review irregularities not specifically listed and, acting in the best interests of the Town, have authority to waive such irregularities, permit correction to the irregularity or reject the submission.

	Irregularity	Response
1.	Late Submissions.	Rejection; not opened or read publicly. Submission to be returned to submitter.
2.	Insufficient Financial Security (No bid bond/deposit or agreement to bond or insufficient bid bond/deposit).	Automatic Rejection for no bid deposit. Automatic Rejection for no agreement to bond. 48 hours to correct shortfall in bid deposit if less than required by no more than 10%.

	<b>Irregularity</b>	<b>Response</b>
3.	Conditional Bids (Bids qualified or restricted by an attached statement).	Automatic rejection unless, in the opinion of Department Head and Purchasing, the qualification or restriction is insignificant.
4.	Illegible or obscure Bids, non-initialed erasures, non-initialed alterations.	Automatic rejection.
5.	Documents, in which all necessary Addenda which have significant financial or scope implications in the opinion of the Purchasing Manager and user group, have not been acknowledged.	Automatic rejection.
6.	Documents in which all necessary Addenda which do not have significant financial or scope implications in the opinion of the Purchasing Manager and user group, and have not been acknowledged.	48 hours to submit.
7.	Bids received from bidders who did not attend mandatory site visit(s).	Automatic rejection.
8.	Bids received on documents other than those provided by the Town, when specified to do so.	Automatic rejection.
9.	Failure to insert the bidder's business name in the space(s) provided on Mandatory Submission Pages.	48 hours to submit.
10.	Failure to include signature of the person authorized to bind the bidder in the space provided on the Tender / Proposal Form.	48 hours to submit.
11.	More than one submission from the same submitter and not identified as an alternative or optional submission and no written withdrawal notice has been received.	The submission package bearing the most recent date/time stamp will be considered the intended submission and the previously date/time stamped submissions will be considered withdrawn and will be returned to sender, unopened.

	<b>Irregularity</b>	<b>Response</b>
12.	Bids Containing Mathematical Errors	<p>If the amount tendered for a unit price item does not agree with the extension of the estimated quantity and the tendered unit price, or if the extension has not been made, the unit price shall govern and the total price shall be corrected accordingly.</p> <p>If both the unit price and the total price are left blank, the Bid will be rejected as incomplete.</p> <p>If the unit price is left blank but a total price is shown for the item, the unit price shall be corrected according to the total provided.</p> <p>If the Tender contains an error in addition and/or subtraction in the approved tender documentation format requested (i.e. not the additional supporting documentation supplied), the error shall be corrected and the corrected total Contract price shall govern.</p> <p>Tenders containing prices which appear to be so unbalanced as to likely affect the interests of the Town adversely will be clarified and may be rejected.</p>
13.	Other minor irregularities	<p>Purchasing, in conjunction with the Director of Finance shall have authority to waive irregularities, which they jointly consider to be minor.</p>
14.	Any irregularity	<p>Despite all provisions herein contained, Purchasing in conjunction with the members of the Senior Management Team may waive any irregularity where it considers it to be in the best interest of the Town.</p>

**26. Accessibility and Procurement**

Town of The Blue Mountains is a major purchaser of goods and services. It is important that procurement processes are inclusive so that all vendors can participate, and all contracted parties are aware of the need to provide accessible goods and services.

## Exclusions

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n/a

## References and Related Policies

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### Procurement Legislation and Guidelines

The Municipal Act, 2001, Part VI, Section 270, as amended states that before January 1, 2005, a municipality shall adopt and maintain a policy with respect to procurement of goods and services. Although procurement is governed by Contract Law, there are various Trade Agreements and Guidelines to be considered.

#### I Contract Law in Canada

A contract is any legally enforceable agreement. Any agreement to purchase is a contract if it involves the following elements:

- a. A legal offer that is clearly defined – offers must be unambiguous, not vague
- b. Acceptance of said offer. Acceptance terms must match offer terms
- c. Legal consideration – both parties have given something of value
- d. Legal purposes – contract must be of/for legal goods and/or services
- e. Legal intention – each participant must have intended to be part of the contract
- f. Competence – or legal capacity to enter into a contract

Verbal Contracts – although legal and binding, are always vague and lack important terms and conditions; any deals should be in writing wherever possible.

#### II Trade Agreements

Canadian Free Trade Agreement  
Comprehensive Economic Trade Agreement  
Agreement on the Opening of Public Procurement for Ontario and Quebec  
Agreement on Internal Trade

#### III The Discriminatory Business Practices Act

The purpose and intent of this Act is to prevent discrimination in Ontario on the ground of race, creed, colour, nationality, and ancestry, place of origin, sex or geographical location of persons employed in or engaging in business. R.S.O. 1990, c. D.12, s. 2.

#### **IV Conflict of Interest Act**

It is a criminal offence when an elected politician, public official or government employee acts contrary to his or her duty to the public to obtain a personal benefit per Section 122 of the Criminal Code.

#### **Consequences of Non-Compliance**

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Failure to adhere to the requirements outlined in this Policy may lead to progressive disciplinary action up to and including termination of employment.

#### **Review Cycle**

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This Policy will be reviewed at least once every term of Council.





# Purchasing of Goods and Services Policy

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POL.COR.07.05

<b>Policy Type:</b>	Corporate Policy (Approved by Council)
<b>Date Approved:</b>	November 28, 2016
<b>Revisions Approved:</b>	
<b>Department:</b>	Finance and IT Services
<b>Staff Report:</b>	FAF.16.102, FAF. 18.108
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- Strive to ensure ethical purchasing practices are used by all staff.

## Application

---

This policy applies to Staff and Council of Town of The Blue Mountains with respect to the Town's procurement activities.

Local Boards that have not enacted their own Purchasing Policy will be required to comply with the Town's Purchasing Policy.

## Procedures

---

The Manager of Purchasing shall have the authority to develop procedures to implement this policy in association with the Senior Management Team.

The Purchasing Procedures will be approved by the Senior Management Team and are to be used as instruction for staff when purchasing goods or services in compliance with this policy.

The Manager of Purchasing will administer this policy.

Any question involving the meaning or application of this policy is to be submitted to the Manager of Purchasing who will resolve the question.

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Informal processes are to be completed by the user department and shall include direct purchase or Informal Quotations. It will also include the Request for Quote process where Purchasing will assist in the document creation with the user department.

### 1. Direct Purchasing

Direct purchase, as described below, may be used when:

1. The dollar value of the item is equal to or less than \$5,000.

2. The item is not covered under a Blanket Order Contract.

## **2. Request for Quotation (RFQ)**

Request for Quotation procedures will be used when:

1. The cost of the item is between \$5,000 and \$24,999.
2. The ability exists to detail what is being purchased.
3. Document title will be consecutively numbered based on the Town's numbering and naming convention. User division shall request such number.
4. Best Value for the Town can be achieved by an Award selection made on the basis of the lowest compliant bid that meets specifications.

## **Formal Processes**

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Formal processes will be issued by Purchasing and shall include Request for Tender or Request for Proposal.

## **3. Request for Tender (RFT)**

RFT procedures shall be used when:

1. The cost of the item is \$25,000 or greater.
2. The ability exists to detail what is being purchased.
3. Best Value for the Town can be achieved by an Award selection made on the basis of the lowest compliant bid that meets minimum specifications

## **4. Request for Proposal (RFP)**

Request for Proposal procedures shall be used when:

1. The requirement is best described in a general performance specification.
2. Innovative solutions are sought.
3. The Award selection will be made based on a fully disclosed evaluation method involving a combination of mandatory and desirable requirements.

## Other Processes

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### 5. Blanket Order Contracts

Blanket Order Contracts occur as a result of a previous competitive bid, which establishes the successful bidder as the preferred source for a product or service over a specific term.

### 6. Rotational Rosters

A Rotational Roster is the result of a competitive bidding process, which prequalifies vendors to be placed on a list where they will be provided an equal opportunity to perform work for the Town as it becomes available.

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### 9. Sole and Single Sourcing

Sole Sourcing is a method of procurement whereby a purchase order is issued or contract awarded without a competitive bidding process due to the fact that the supplier is the only source of supply for the required goods or services.

Sole Sourcing will be permitted if one or more of the following circumstances apply:

1. One supplier/contractor possessing the unique ability or capability to meet the requirements of the Town due to a patent, sales/distributor agreement or copyright
2. Service is obtained from a public utility

3. The supply relates to necessary unique replacement parts from an exclusive source of supply
4. The supply relates to the purchase of parts that must be compatible with goods previously supplied, and there are no reasonable alternatives to the products.
5. To maintain warranty or service agreement compliance for purchased products.
6. When the required item is covered by an exclusive right such as a patent, copyright or exclusive license

Single Sourcing is a method of procurement whereby there is more than one vendor able to supply and a purchase order is issued or contract awarded without a competitive bidding process.

Single Sourcing will be permitted if one or more of the following circumstances apply:

1. disclosure of information in an open contract competition would breach some duty of confidentiality or compromise security
2. the compatibility of a purchase with existing equipment, product standards, facilities or service is a paramount consideration
3. there is an absence of competition for technical reasons and the Goods and/or Services can only be supplied by a particular Supplier
4. an unforeseeable situation of urgency exists and the Goods and/or Services cannot be obtained in time by means of open procurement procedures
5. there are no bids in response to a Bid Solicitation
6. a Roster for Professional Services has been developed
7. when competitive procurement may be found to be impractical
8. where a good is purchased for testing or trial use and there is a clearly established deadline for the testing or trial period that does not exceed 12 months
9. when an urgent procurement is necessary for fulfilling a statutory order issued by a federal or provincial authority (i.e. compliance order)

The use of Sole and Single Sourcing with a particular vendor exceeding \$25,000 must be approved by Council. Any single or sole sourcing with an amount between \$5,001 and \$24,999 must be reported by the applicable Department Head and approved by the Manager of Purchasing and Director of Finance. In order for a division to sole or single source for goods or services exceeding \$25,000, an operating strategy must be presented with Purchasing input and approved by Council, outlining the rationale. Input must be sought from the Manager of

Purchasing to ensure the purchasing principles in the Town's Procedures are taken into consideration and risk to the Town is minimized.

## 10. Negotiation

Negotiation may only be used under the following circumstances:

1. Those outlined within Sole and Single Sourcing.
2. As a result of an RFP process, if required.
3. With respect to RFT's, and RFQ's, the Town may enter into negotiations with the lowest compliant bidder if the price bid is over the budgeted amount for the project. Should the Town be unable to reach an agreement with the lowest compliant bidder, the Town reserves the right to enter into negotiations with the next lowest compliant bidder, to cancel the bid opportunity or to present a report to Council whichever is deemed to be in the best interest of the Town.
4. All bids received failed to meet the specifications and/or tender terms and conditions and it is impractical to recall tenders.

It is the responsibility of Purchasing to ensure that all competitive bidding options have been considered prior to the negotiation method being utilized.

## 11. Procurement in Emergencies

Notwithstanding the provisions of this policy, an emergency purchase shall be made when an event occurs that is determined by the Mayor, the C.A.O. and/or Department Head to be a threat. Where in the above opinion an emergency has occurred, non-competitive procurement or negotiation methods may be utilized.

The User Division shall submit a memorandum to Council outlining the purchase and the conditions that constituted an emergency, together with a source of funding, prior to the end of the quarter in which the emergency procurement took place. If Council approval for the funding source is required, the User Division shall submit the above information in the form of a Staff Report to the next available Council meeting.

## 12. Non-Competitive Purchases

Under the direction and control of Purchasing, the requirement for competitive bid solicitation for goods and services may be waived under the authority of this Policy and replaced with Negotiations.

### **13. Request for Expression of Interest**

Requests for Expression of Interest may be issued to prequalify vendors for various projects or purchases or to obtain information on the availability and interest of suppliers of any goods or services. Requests for Expression of Interest may or may not result in the development of a list of available suppliers.

### **14. Request for Pre-Qualification (RFPQ)**

RFPQ may be issued to prequalify vendors for various projects or purchases. The purpose of an RFPQ is to determine whether the qualifications of a bidder, as required by the Town, are at a level that will allow participation in a subsequent bidding opportunity that takes place as a direct result of the Request for Pre-Qualification.

### **15. Request for Information (RFI)**

An RFI may be issued by Managers/Purchasing to provide staff with specifications for future use.

An RFI may be issued in advance of a formal bid process to assist in the development of a more definitive set of terms and conditions, scope of work/service and the selection of qualified Vendors.

An RFI may or may not lead to a formal bid process.

### **16. Goods and Services Exempt from Procurement Policy**

The purchasing methods described in this Procedure do not apply to the following Goods and Services:

- a) Training and Education
- b) Registration, accommodation and tuition fees for conferences, conventions, courses and seminars
- c) Magazines, books and periodicals
- d) Memberships
- e) Staff development or staff workshops
- f) Refundable Employee/Councillor Expenses
- g) Advances
- h) Meal allowances
- i) Travel (fuel, accommodation etc.)
- j) Ongoing maintenance for existing computer hardware and software
- k) Employer's General Expenses
- l) Payroll Deduction Remittances
- m) Medicals
- n) Licenses
- o) Debenture Payments

- p) Grants to Agencies
- q) Damage Claims
- r) Tax Remittances
- s) Insurance Premium payments
- t) Refunds to property owners (property tax, building permit, entrance permit, etc.)
- u) Professional and Special Services up to \$100,000 including:
  - i. Committee fees, witness fees
  - ii. Realty services regarding lease, acquisition, demolition, sale, disposal or appraisal of land
  - iii. Advertising services required in radio, television, newspaper or magazines
  - iv. Bailiff or collection agencies
  - v. Freight charges
  - vi. Utilities
- v) Performance / Artist's Fees
- w) Employee Group Benefits
- x) All legal services and fees
- y) Professional and Special Services exceeding \$100,000 must be procured formally.

## **17. Risk Management**

Risk Management ensures that the Town's interests are protected through the bidding process.

Risk Management includes:

- Bid deposits
- Performance, Labour & Material Payment and Maintenance Bonds
- Holdbacks
- Liquidated Damages

The Manager of Purchasing in consultation with the Project Manager will ensure that adequate security is provided in each bid opportunity.

## **18. Insurance & WSIB**

The Manager of Purchasing in consultation with the Project Manager will ensure that satisfactory insurance coverage is obtained from each contractor and consultant working for the Town. Insurance limits will be based on recommendations from the Town's Insurer and insurance types will be relevant to the goods, services or construction being purchased.

All contractors and consultants will be required to provide the Town with appropriate documentation outlining Workplace Safety Insurance Board (WSIB) coverage.



## **19. Exclusion of Bidders in Litigation**

The Town may, in its absolute discretion, reject a bid submission prior to or after a bid opening from any bidder that is:

- in litigation with the Town; or
- is directly or indirectly, including by common ownership or control or otherwise, related to a party to litigation with the Town; or
- intends to use a sub-contractor in respect of a specific project who is party to litigation with the Town or who is directly or indirectly, including by common ownership or control or otherwise, is related to a party to litigation with the Town.

“Party to litigation with the Town” includes cases in which the Bidder or prospective Bidder or any of the parties included have advised the Town in writing of their intent to commence litigation or have commenced or have advised the Town of their intention to commence an arbitral proceeding against the Town.

Bids from any Bidder in any of these circumstances shall be rejected as informal and non-compliant.

## **20. Conflict of Interest**

It is the responsibility of all staff, Council or Board members involved in bid solicitation or evaluation to disclose any inherent or potential Conflict of Interest to their Manager or Department Head or in the case of a Member of Council or Board Member, to the C.A.O. Any staff, Council or Board member disclosing a Conflict of Interest shall remove himself from the associated procurement process.

## **21. No Local Preference**

In accordance with the Discriminatory Business Practices Act, as amended, there shall be no local preference given to any Bidder when awarding a Bid for purchase of Goods, Services and Construction for the Town.

## **22. Trade Agreements**

Procurement by the Town may be subject to the provisions of trade agreements. Where an applicable trade agreement is in conflict with this Policy, the trade agreement shall take precedence.

## **23. Lobbying Prohibited**

The Town shall be entitled to reject a bid submission if any representative of a Bidder, including any other parties that may be involved in a joint venture, consortium, subcontractor or supplier relationship, makes any representation or solicitation to any elected official, employee or agent of the Town. This requirement does not extend to any public deputations that may be made to

Council in accordance with the Procedural By-law.

## **24. Tie Bids**

In the case of tie bids between two responsive and responsible bidders and, where multiple awards are not an alternative for award, the Town shall determine the successful bidder by coin toss. The Manager of Purchasing and at least two members of the User Division must be present.

In the case of tied bids between three or more responsive and responsible bidders and where multiple awards are not an alternative for award, the Town shall determine the successful bidder by a draw of the bidder names from a hat. The Manager of Purchasing and at least two members of the User Division must be present.

## **25. Authorizations**

Council has the ultimate authority for all expenditures. Council provides the authority to Staff for the initiation and completion of procurement processes for goods, services and construction through the authorization of annual budgets or resolutions.

## **26. Council Approval Required**

Despite any other provisions of this Policy, the following procurements, over \$25,000, excluding taxes, are subject to prior Council approval:

1. Any contract requiring approval from the Local Planning Appeals Tribunal (LPAT).
2. Any acquisition of goods or services that is not already approved in the current year's budget, such as items requiring pre-budget approval or post-budget amendments, must be reported to Council in order to have the expenditure authorized via resolution.
3. Where the net revenue amount proposed for acceptance is lower than the Council approved budget
4. Any contract where the award is not being recommended to the lowest compliant bidder, with the exception of Request for Proposals
5. Any contract anticipated to be financed by debentures

Purchasing will provide a report to Council on a monthly basis outlining all awards that fall within Staff Authorized Awards in excess of \$25,000.

## **27. Authority to Reallocate Approved Budget Funds**

To ensure proper expenditure management and budget accountability, each Director is

responsible for ensuring that all purchases remain within the Department's approved operating budget or approved capital project budget, unless otherwise provided for in this policy.

Reallocation of funds between Operating Budgets and Capital Budgets is not permitted under any circumstances.

In order to allow purchases to proceed which exceed the approved budget, a Director shall have the authority to reallocate funds, without exceeding the aggregate budget within their control, under the following conditions:

#### **Operating Budget**

1. The shortfall for the purchase of the goods or service is less than \$10,000;
2. All changes must be one-time and shall not affect the base budget;
3. Reallocations may only occur within or between supplies and services accounts;
4. General scope of work or service delivery method cannot be changed;
5. The funding source must be the same for all accounts affected by the reallocation.

#### **Capital Budget**

1. The shortfall cannot exceed 20% of the project budget to a maximum of \$75,000;
2. General scope of work or service delivery method cannot be changed;
3. If reallocating funds from a capital project/component, the capital project/component in which funds are being transferred from must already be an Awarded project/component;
4. Revised Bid Award Form must be completed when funds are reallocated;
5. The funding source must be the same for all accounts affected by the reallocation.

All other budget over-runs must be approved by Council before Award is made.

### **28. Authority to Award**

This section outlines the Authority to Award a Bid in accordance with the intent of the purchasing methods outlined in this policy.

The full amount, excluding applicable net taxes, for the supply of Goods, Services or Construction shall be considered when determining the Authority to Award.

Authority to Award	Dollar Value	Method of Procurement if Formal or Informal	Method of Award
Council	Unlimited	n/a	Council Resolution
CAO, Director and Manager of Purchasing	\$250,000 or greater	Tender or RFP	Bid Award Form
Director and Manager of Purchasing	\$25,000 up to but not including \$250,000	Tender or RFP	Bid Award Form
Manager or designate	Less than \$25,000	Direct Purchase	Bid Award Form (if no budget reallocation)

## 29. Authority for Payment

Authority for Payment in this schedule relates to payments of amounts contained in approved budgets or by Resolution only. During scheduled absences, Directors are able to delegate signing authority to selected individual(s) with a written notice to the Director of Finance.

Regulatory payments (payroll deductions etc.) are excluded from this schedule.

The numbers in this table are maximums. Directors have the right to lower these numbers at their discretion.

Authority limits for payment are as follows:

POSITION	DETAIL	LIMIT
Chief Administrative Officer	All expenditures	As per Council approved budget
Director / Fire Chief	All expenditures	As per Council approved budget
Supervisory Staff as designated by Director	General Purposes – day-to-day departmental requirements	\$100,000
Senior Staff as designated by Director	General Purposes – day-to-day departmental requirements	\$25,000
General Staff as designated by Director	General Purposes – day-to-day departmental requirements	\$5,000

### **30. Accessibility and Procurement**

Town of The Blue Mountains is a major purchaser of goods and services. It is important that procurement processes are inclusive so that all vendors can participate, and all contracted parties are aware of the need to provide accessible goods and services.

#### **Exclusions**

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n/a

#### **References and Related Policies**

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##### **Procurement Legislation and Guidelines**

The Municipal Act, 2001, Part VI, Section 270, as amended states that before January 1, 2005, a municipality shall adopt and maintain a policy with respect to procurement of goods and services. Although procurement is governed by Contract Law, there are various Trade Agreements and Guidelines to be considered.

##### **I Contract Law in Canada**

A contract is any legally enforceable agreement. Any agreement to purchase is a contract if it involves the following elements:

- a. A legal offer that is clearly defined – offers must be unambiguous, not vague
- b. Acceptance of said offer. Acceptance terms must match offer terms
- c. Legal consideration – both parties have given something of value
- d. Legal purposes – contract must be of/for legal goods and/or services
- e. Legal intention – each participant must have intended to be part of the contract
- f. Competence – or legal capacity to enter into a contract

Verbal Contracts – although legal and binding, are always vague and lack important terms and conditions; any deals should be in writing wherever possible.

##### **II Trade Agreements**

Canadian Free Trade Agreement  
Comprehensive Economic Trade Agreement  
Agreement on the Opening of Public Procurement for Ontario and Quebec  
Agreement on Internal Trade

### **III The Discriminatory Business Practices Act**

The purpose and intent of this Act is to prevent discrimination in Ontario on the ground of race, creed, colour, nationality, and ancestry, place of origin, sex or geographical location of persons employed in or engaging in business. R.S.O. 1990, c. D.12, s. 2.

### **IV Conflict of Interest Act**

It is a criminal offence when an elected politician, public official or government employee acts contrary to his or her duty to the public to obtain a personal benefit per Section 122 of the Criminal Code.

### **Consequences of Non-Compliance**

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Failure to adhere to the requirements outlined in this Policy may lead to progressive disciplinary action up to and including termination of employment.

### **Review Cycle**

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This Policy will be reviewed at least once every term of Council.

### Schedule A - Irregularities Contained within Paper Bids

The following list of irregularities should not be considered all inclusive. The Manager of Purchasing and, as may be warranted, in consultation with any or a selection of the following, respective departmental staff, C.A.O. and/or the Town’s Solicitor, shall review irregularities not specifically listed and, acting in the best interests of the Town, have authority to waive such irregularities, permit correction to the irregularity or reject the submission.

	<b>Irregularity</b>	<b>Response</b>
1.	Late Submissions.	Rejection; not opened or read publicly. Submission to be returned to submitter.
2.	Insufficient Financial Security (No bid bond/deposit or agreement to bond or insufficient bid bond/deposit).	Automatic Rejection for no bid deposit. Automatic Rejection for no agreement to bond. 48 hours to correct shortfall in bid deposit if less than required by no more than 10%.
3.	Conditional Bids (Bids qualified or restricted by an attached statement).	Automatic rejection unless, in the opinion of Department Head and Purchasing, the qualification or restriction is insignificant.
4.	Illegible or obscure Bids, non-initialed erasures, non-initialed alterations.	Automatic rejection.
5.	Documents, in which all necessary Addenda which have significant financial or scope implications in the opinion of the Purchasing Manager and user group, have not been acknowledged.	Automatic rejection.
6.	Documents in which all necessary Addenda which do not have significant financial or scope implications in the opinion of the Purchasing Manager and user group, and have not been acknowledged.	48 hours to submit.
7.	Bids received from bidders who did not attend mandatory site visit(s).	Automatic rejection.
8.	Bids received on documents other than those provided by the Town, when specified to do so.	Automatic rejection.

	<b>Irregularity</b>	<b>Response</b>
9.	Failure to insert the bidder’s business name in the space(s) provided on Mandatory Submission Pages.	48 hours to submit.
10.	Failure to include signature of the person authorized to bind the bidder in the space provided on the Tender / Proposal Form.	48 hours to submit.
11.	More than one submission from the same submitter and not identified as an alternative or optional submission and no written withdrawal notice has been received.	The submission package bearing the most recent date/time stamp will be considered the intended submission and the previously date/time stamped submissions will be considered withdrawn and will be returned to sender, unopened.
12.	Bids Containing Mathematical Errors	<p>If the amount tendered for a unit price item does not agree with the extension of the estimated quantity and the tendered unit price, or if the extension has not been made, the unit price shall govern and the total price shall be corrected accordingly.</p> <p>If both the unit price and the total price are left blank, the Bid will be rejected as incomplete.</p> <p>If the unit price is left blank but a total price is shown for the item, the unit price shall be corrected according to the total provided.</p> <p>If the Tender contains an error in addition and/or subtraction in the approved tender documentation format requested (i.e. not the additional supporting documentation supplied), the error shall be corrected and the corrected total Contract price shall govern.</p> <p>Tenders containing prices which appear to be so unbalanced as to likely affect the interests of the Town adversely will be clarified and may be rejected.</p>



	<b>Irregularity</b>	<b>Response</b>
13.	Other minor irregularities	Purchasing, in conjunction with the Director of Finance shall have authority to waive irregularities, which they jointly consider to be minor.
14.	Any irregularity	Despite all provisions herein contained Purchasing, in conjunction with the members of the Senior Management Team may waive any irregularity where it considers it to be in the best interest of the Town.

**Schedule B - Irregularities Contained within Bids  
Applicable to Electronic Bids Only**

The following list of irregularities should not be considered all inclusive. The Manager of Purchasing and, as may be warranted, in consultation with any or a selection of the following, respective departmental staff, C.A.O. and/or the Town’s Solicitor, shall review irregularities not specifically listed and, acting in the best interests of the Town, have authority to waive such irregularities, permit correction to the irregularity or reject the submission.

Number	Irregularity	Response
1.	Late Submissions – Bid received after the closing date and time specified in the Bid Document	Bidding system does not accept late bids
2.	Addenda not acknowledged	Bidding system does not accept bids that have not acknowledged all addenda
3.	Site Meeting – Bidder did not attend a mandatory site meeting	Bidding system does not allow submissions from vendors that have not attended a mandatory site meeting
4.	Method of Delivery – where the bid has been submitted via any other method other than through the Bidding System, where no such provision is allowed for in the bid document	Bid declared non-compliant
5.	Format – bid not on the form supplied by the Town or not in the format specified in the bid document	Bid declared non-compliant
6.	Bid Bond / Agreement to Bond – Bond is missing, the amount is less than the amount indicated in the bid document or the bonding company is not licenced to conduct business in Ontario.	Bid declared non-compliant
7.	Bid Bond – Bond is not electronically verifiable / enforceable (e-Bond) as indicated in the bid documents	Bid declared non-compliant

Number	Irregularity	Response
8.	Documents – documents provided through the Bidding System are not the required documents or are not legible	Bid declared non-compliant
9.	Qualified Bid – where the bid has been qualified by changes to specifications or major requirements and acceptance would allow an unfair advantage over competitors	Bid declared non-compliant
10.	Other minor irregularities	Purchasing, in conjunction with the Director of Finance shall have authority to waive irregularities, which they jointly consider to be minor.
11.	Any irregularity	Despite all provisions herein contained Purchasing in conjunction with the members of the Senior Management Team may waive any irregularity where it considers it to be in the best interest of the Town.



# Notice of Public Meeting

## Proposed Updates to Purchasing of Goods and Services Policy, POL.COR.07.05

Monday, April 29, 2019 – 5 p.m.

Town Hall, Council Chambers  
32 Mill Street, Thornbury, ON N0H 2P0

### What is being proposed?

The Blue Mountains Council will be holding a Public Meeting to allow the public the opportunity to comment on the proposed updates to the Purchasing of Goods and Services Policy, POL.COR.07.05.

A summary of the proposed updates includes the provision of electronic bidding and minor administrative updates. Details of the proposed changes are included in Staff Report FAF.19.040

Notice is hereby given that the Council of The Corporation of the Town of The Blue Mountains, at its regularly scheduled Council Meeting on June 3, 2019 intends to consider the proposed Purchasing of Goods and Services Policy and By-law.

Copies of the Purchasing of Goods and Services Policy will be available through the Town's website, [www.thebluemountains.ca](http://www.thebluemountains.ca).

### Questions? Want more information?

#### Ask a Staff Member!

Serena Wilgress, Manager of Purchasing and Risk Management  
519-599-3131 ext278  
[purchasing@thebluemountains.ca](mailto:purchasing@thebluemountains.ca)

### When will a decision be made?

It is important to note that a decision on the Purchasing of Goods and Services Policy has NOT been made at this point, and will NOT be made at this Public Meeting.

After reviewing the Purchasing of Goods and Services Policy and comments from the public, Staff will bring its recommendations to Council at a future Council Meeting.

### How can I make my views known about this proposal?

Comments at the Public Meeting aid the Town and Council in their decision making process, so be sure to have your say!

Any person or agency may attend the Public Meeting and/or make verbal or written comments regarding the Purchasing of Goods and Services Policy.

### How do I submit my comments?

If you would like to submit comments in writing or would like to be notified of a decision on this proposal, submit your written comments or request during regular office hours (Monday to Friday from 8:30 a.m. to 4:30 p.m.) to Corrina Giles, Town Clerk at:

Town Hall, 32 Mill Street, Thornbury, ON  
Telephone: 519-599-3131 ext. 232

Comments can also be faxed to Corrina Giles at 519-599-7723, or emailed to [townclerk@thebluemountains.ca](mailto:townclerk@thebluemountains.ca)

Please note that any submitted comments become part of the **public record**, including names and addresses. Written comments are due by **12:00 pm - April 26, 2019** so that they may be read at the meeting for the benefit of everyone in attendance.

*Under the authority of the Municipal Act, 2001 and in accordance with Ontario's Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), all information provided for, or at a Public Meeting, Public Consultation, or other Public Process are considered part of the public record, including resident deputations. This information may be posted on the Town's website. and/or made available to the public upon request.*

This document can be made available in other accessible formats as soon as practicable and upon request.