

MUNICIPALITY OF THE DISTRICT OF ARGYLE POLICY AND ADMINISTRATION MANUAL	REFERENCE NUMBER _____
SECTION PROCEDURE AND ORGANIZATION OF COUNCIL	SUBJECT PROCUREMENT

1. PURPOSE

1.1. To establish a Policy that guides Municipal staff in the acquisition of goods and services on behalf of the organization in a manner that is (1) consistent with Council's budget approvals, and (2) complies with the Province of Nova Scotia's Public Procurement Act.

1.2. The Municipality of Argyle is committed to:

- a) Providing for the procurement of goods, services, construction and facilities in a fair, open, consistent, and transparent manner resulting in best value;
- b) Encouraging competition, innovative ideas and solutions, while respecting all Legislative and Trade Agreement obligations;
- c) Promoting sustainable procurement in procurement decisions, including identifying and exploring opportunities to work with and support social enterprises and businesses that are owned by and who employ under-represented populations;
- d) Ensuring that qualified suppliers have equal opportunity to bid on the Municipality of Argyle's procurement activity;
- e) Being accountable for procurement decisions.
- f) Avoid dishonesty, corruption and favoritism in the procurement of goods, services construction and facilities.

2. DEFINITIONS

2.1. For the purposes of this policy, the following definitions are provided:

- a) Atlantic Standard Terms & Conditions - Standard instructions that support public tenders issued by the four Atlantic provinces for goods and services. Supplements may be added if and when required.
- b) Best Value - Evaluating bids not only on purchase price and life cycle cost considerations, but also taking into account items such as environmental and social considerations, delivery, servicing, and the capacity of the supplier to meet other criteria as stated in the tender documents.
- c) Bid - A supplier response to a public tender notice to provides goods, services, construction or facilities.
- d) Competitive quotes – A written request for a written quote from multiple suppliers for the acquisition of goods or services.

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- e) Construction - The construction, reconstruction, demolition, repair, or renovation of a building, structure, road or other engineering or architectural work, excluding the professional consulting services related to the construction contract unless they are included in the procurement.
- f) Construction Contract Guidelines - Standard instructions developed in consultation with the Construction Association of Nova Scotia that support construction tenders.
- g) Goods - Materials, furniture, merchandise, equipment, stationery, and other supplies required by the Municipality of Argyle for the transaction of its business and affairs and includes services that are incidental to the provision of such supplies.
- h) Local preference – Any supplier of goods and/or services located in the Municipality of Argyle. In absence of an interested supplier from Argyle, any supplier of goods and/or services located in Yarmouth County. In absence of an interested supplier from Yarmouth County, any supplier of goods and/or services located in either of Digby and Shelburne Counties.
- i) Procurement Advisory Group - The advisory group established by the Public Procurement Act to provide advice and recommendations to advance the outcomes of the Act.
- j) Procurement Activity - The acquisition of all goods, services, construction, or facilities procured by purchase, contract, lease, or long-term rental.
- k) Procurement Value - The value of the total contract excluding taxes but including all options whether exercised or not. For Facilities this value is determined by the monthly lease/rent times the term of the contract.
- l) Procurement Web Portal - The public website maintained by the Province where all public tender notices are posted.
- m) Public Advertisement - Advertising a public tender notice on the provincial procurement web portal when PPA thresholds are exceeded. Public advertisement could also include advertisement on the Municipal website and local, provincial, and national newspapers, most notably when PPA thresholds are not exceeded.
- n) Public Procurement Act (PPA) - An Act outlining the rules related to the procurement activity of all public sector entities in the Province of Nova Scotia.
- o) Public Tender - Procurement for goods, services, construction, or facilities obtained through public advertisement. (See appendix 2 for an outline of the various tools that can be used for public tender.)
- p) Public Tender Notice - Notice of intended procurement for goods, services, construction, or facilities obtained through public advertisement.

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- q) Services - Services required by the Municipality of Argyle for the transaction of its business and affairs, excluding services provided by an employee through a personal services contract.
- r) Standing Offer - A contractual arrangement with a supplier to provide certain goods or services on an “as required” basis, during a particular period of time, at a predetermined price or discount, generally within a predefined dollar limit.
- s) Sustainable Procurement - Involves taking a holistic approach to obtain best value. This will be done by integrating the following considerations in the procurement process:
 - 2.1.s.1. Environmental consideration: e.g. Green house gas reduction, waste
 - 2.1.s.2. Reduction, Toxic use reduction
 - 2.1.s.3. Economic considerations: e.g. Life cycle costs, fiscal responsibility support for the local economy
 - 2.1.s.4. Social consideration: e.g. Employee health and safety, inclusiveness and
 - 2.1.s.5. Fair Wage, health promotion
- t) Multi-Use Lists – Type of standing offer where specific suppliers of certain goods and services are pre-qualified and added to a list.
- u) Entrenched Incumbent – Suppliers whose goods and services are integral to the operation of The Municipality of Argyle and where change to or removal of the supplier would result in severe disruption to Municipal activities.
- v) Supply Arrangement – A type of contract where a rate is established with a specific supplier for a specific period of time for certain goods or services. Similar to a multi-use list, there is no guarantee how often the goods and service will be required.

3. APPLICATION

- 3.1. The Chief Administrative Officer of the Municipality of Argyle is responsible for ensuring compliance with this policy.
- 3.2. All Municipality of Argyle personnel who have authority for the procurement of goods, services, construction, or facilities must adhere to this policy. Failure to adhere may result in a temporary or permanent loss of procurement privileges or in more extreme cases result in disciplinary action and/or dismissal.

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4. PURCHASING AUTHORITY

4.1. Purchase Authority shall be designated based on the following thresholds:

- a) Up to \$5,000 – A Department Head is authorized to make contracts for the acquisition of goods and services where such expenditure is within budget allocation.
- b) Up to \$10,000 – The Chief Administrative Officer is authorized to make contracts for the acquisition of goods and services where such expenditure does not exceed budget by more than 10%.
- c) \$10,000 or greater – The Chief Administrative Officer requires Council approval for the acquisition of goods and services.

4.2. Exempted payments

- a) Certain payments such as provincially determined expenditures as they apply, including any payments as may be required by the Municipal Government Act, or any other applicable legislation, are exempt from this policy. Examples of such commitments include but are not restricted to: School Board Appropriation paid to the Province, PVSC Services, RCMP services, and Correctional Services.
- b) Utility payments, where no competitor exists, are exempt from this policy.

4.3. All dollar threshold references are to be values excluding tax.

5. DIRECTIVES

5.1. Low value procurement of goods and services having a cost of less than \$5,000.

- a) If a standing offer with the Municipality exists, the goods or services must be procured under the standing offer.
- b) If a standing offer exists through the Province of Nova Scotia, the good or service may be procured through that standing offer, however the Purchase Authority may give preference to local suppliers.
- c) If no standing offer exists with the Municipality, the Purchase Authority may authorize acquisition from any supplier, so long as the purchase is consistent with the Purpose of this Policy.

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5.2. Mid-range value procurement of goods and services between \$5,001 and \$25,000 (or \$50,000 for construction).

- a) If a standing offer with the Municipality exists, the goods or services must be procured under the standing offer.
- b) If a standing offer exists through the Province of Nova Scotia, the good or service may be procured through that standing offer, however the Purchase Authority may give preference to local suppliers.
- c) If no standing offer exists, the Purchase Authority will obtain competitive quotes and award the purchase to the supplier providing best value to the Municipality of Argyle.

5.3. High Value procurement of goods greater than \$25,001 and \$50,000 for construction or services

- a) If a standing offer with the Municipality exists, the goods or services must be procured under the standing offer.
- b) If a standing offer exists through the Province of Nova Scotia, the good or service may be procured through that standing offer, however the Purchase Authority may give preference to local suppliers.
- c) If no standing offer exists, the procurement must take place by public tender. If the procurement activity exceeds the thresholds stipulated in the PPA, then any public advertisement must include use of the provincial procurement web portal.

6. PURCHASE TOOLS

6.1. Purchase Order

- a) The Purchase Order is the tool used to finalize the bid process for goods and services. The purchasing procedure begins with a Purchase Order being completed. It describes the items or service to be ordered, delivery date and the amount to which the purchase will be allocated in the financial records.
- b) The Department Heads shall then proceed to purchase the items, following the bid process as required in the policy. The Department Head shall sign the Purchase Order.

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6.2. Purchase Order Not Required:

- a) There are a number of purchases of low value items made at local businesses that accumulate the purchases and submit a monthly statement to the Municipality for payment. A purchase order shall not be required for individual purchases less than \$150 in value. However, the Department Heads shall review the monthly statements from the suppliers to verify price and receipt of goods.

7. ALTERNATIVE PROCUREMENT PRACTICES

- 7.1. In order to balance the need for open, competitive process with the demands of urgent or specialized circumstances, Alternative Procurement Circumstances have been developed. These circumstances must be used only for the purposes intended and not to avoid competition or used to discriminate against specific suppliers. To ensure appropriate use, each circumstance must be documented by Municipality of Argyle personnel stating the rationale permitting the Alternative Procurement Circumstance and signed by the CAO. All documents must be filed and maintained for audit purposes. See Appendix 1 for a list of the Alternative Procurement circumstances, as well as further requirements on documentation.

8. BID OPENING, EVALUATION AND AWARD

8.1. Bid Opening

- a) Bids are accepted in accordance with the closing time, date, and place stipulated in the bid request documents. Members of the public may receive the list of bidders electronically after bid opening.

8.2. Bid Evaluation

- a) All bids are subject to evaluation after opening and before award of contract. The bid request documents must clearly identify the requirements of the procurement, the evaluation method, evaluation criteria based on the purpose and objectives of this policy, and the weights assigned to each criterion.

8.3. Award

- a) The winning bidder and contract award amount for all high value procurement activity must be posted on the Province of Nova Scotia's Procurement Web Portal. After contracts have been awarded, routine access to information at the vendors request shall be provided in the following areas:

8.3.a.1. Bidders list

8.3.a.2. Name of winning bidder

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8.3.a.3. Award price excluding taxes of the winning bidder

8.3.a.4. Access to tender documents or other proprietary information is subject to the provisions of the Freedom of Information and Protection of Privacy Act.

8.4. Supplier Debriefing

- a) At the request of a supplier who submitted a bid, Municipality of Argyle personnel will conduct a supplier debriefing session to provide feedback on the evaluation of the public tender. Suppliers can find out how their proposal scored against published criteria, obtain comments on their bid, and gather information on how future bids may be improved. Supplier's bids are not compared to other bids, nor will information on other bids be provided.

8.5. Supplier Complaint Process (SCP)

- a) When a supplier is not satisfied with the information provided in a supplier debriefing, the supplier may file a complaint in accordance with the Supplier Complaint Process as defined in the Public Procurement Act. The SCP is not a dispute resolution process, but rather is intended to handle supplier complaints and to improve faulty or misleading procurement processes. The SCP is an integral part of a fair and open procurement policy.

9. SUPPLIER DISQUALIFICATION

9.1 Suppliers may be disqualified from participating in future procurement opportunities if it can be reasonably documented to the satisfaction of the CAO that any one of the following have occurred:

- a) Supplier has failure to honour a bid, whether or not The Municipality of Argyle has called a bond
- b) Supplier has failed to disclose a conflict of interest
- c) Supplier has demonstrated unethical bidding practices which can be documented
- d) Supplier has been convicted of bid rigging, price fixing or collusion
- e) Supplier has had a contract terminated as a result of a performance or quality issue documented by The Municipality
- f) Supplier did not provide acceptable goods or services during the term of the contract and despite the Municipality's documented efforts to obtain improved performance, the supplier continued not to perform. The potential for disqualification from future contracts must have been discussed with the supplier as part of performance management.

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9.2 Supplier disqualification must occur at the time the issue is identified and may not be applied retroactively. Once a disqualification has been approved, the supplier must be informed of the disqualification, including:

- a) Reason for disqualification, with summary of evidence supporting the decision
- b) Term of disqualification
- c) Appeal date and appeal process

9.3 Suppliers may appeal to council their disqualification after one year and must demonstrate that they have made significant changes to their organization to resolve the issues which resulted in their initial disqualification. Acceptance of an appeal will be at the sole discretion of the Municipality of Argyle.

10. PRIVELEGE CLAUSE

10.1.1 A statement shall be included in the advertisement that “The Municipality reserves the right to reject any or all tenders, not necessarily accept the lowest tender, or to accept any tender which it may consider to be in its best interest. The Municipality also reserves the right to waive formality, informality or technicality in any tender.”

11. FAIR TREATMENT FOR NOVA SCOTIA SUPPLIERS

11.1. Based on the principle of best value for the Municipality of Argyle and when deemed to be in their best interest, Municipality of Argyle personnel may apply a preference for goods valued up to and including \$25,000 that are manufactured or produced in Nova Scotia. The final decision to apply a preference to a Nova Scotia supplier shall be approved by the Chief Administrative Officer.

11.2. Municipality of Argyle personnel may also choose to apply a Nova Scotia preference or restrict the receipt of quotations at or below the low value procurement thresholds to Nova Scotia Suppliers. Any decision made by Municipality of Argyle personnel should be based on budget considerations and shall be approved by the Chief Administrative Officer.

12. LOCAL PREFERENCE AND SUSTAINABILITY CONSIDERATIONS

12.1. Municipal staff or Council (whoever has the authority to award the contract under this Policy) must give preference to purchasing goods and services from local businesses in accordance with the following:

- a) If the goods or services available from a local business are equal in providing the best value to those available from a non-local business, the goods or services from the local business must be purchased.

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- b) In evaluating which goods or services offer best value to the municipality, the municipality must apply a preference of 10% to the price offered by a local business as compared with non-local businesses, such that the price offered by the local business is adjusted lower by 10-% for the purposes of evaluating which goods or services offer best value.
- c) If the cost of the goods or services available from a local business are equal to or less than \$5,000, the municipality can apply a preference of up to 40% of the price offered by the local business as compared with the non-local business.

12.2. All requests for quotations and notices of public tender must state that local preference applies to the procurement.

12.3. In accordance with the Atlantic Procurement Agreement, the local preference described above does not apply to the following procurements:

- a) goods that have a value of \$25,000 or greater;
- b) services that have a value of \$50,000 or greater;
- c) construction that has a value of \$100,000 or greater.

12.4. Pursuant to the Public Procurement Act, in evaluating which goods or services offer best value to the municipality, the municipality may consider sustainability criteria, meaning environmental considerations, social considerations and economic considerations.

12.5. All requests for quotations and notices of public tender must list the sustainability criteria that apply to the procurement.

13. OTHER CONSIDERATIONS

13.1. Cooperative Procurement

- a) Municipality of Argyle personnel are encouraged to look for opportunities to collaborate with government agencies when the arrangement may result in overall cost savings or other substantial advantages. For example, joint procurement may be appropriate to procure commonly used goods, services, fuel oil, telecommunications, etc.

13.2. Standing Offers

- a) Municipality of Argyle personnel may access all Province of Nova Scotia standing offers, as well as any standing offer established through the Procurement Advisory Group for the Province should Municipality of Argyle personnel wish to make use of the savings opportunities.

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14. OBLIGATIONS UNDER THE PUBLIC PROCUREMENT ACT

14.1. In addition to the areas already covered by this Policy, the following are additional obligations of the Public Procurement Act that the Municipality of Argyle personnel are required to adhere to with their Procurement practices.

a) Terms and Conditions

14.1.a.1. Every public tender notice must include or have attached the terms and conditions that govern the purchase of goods, services, construction, or facilities. The terms and conditions of every public tender notice must be consistent with the Atlantic Standard Terms and Conditions for the procurement of goods, services, or facilities and the Construction Contract Guidelines developed in collaboration with the Construction Association of Nova Scotia for the procurement of construction.

b) Posting Tender Notices and Awards

14.1.b.1. All opportunities subject to a public tender, as required by the PPA guidelines, must be advertised on the Province of Nova Scotia Procurement Web Portal. Municipality of Argyle personnel must also post on the Procurement Web Portal the name of the successful bidder for the public tender and the contract amount awarded.

c) Code of Ethics

14.1.c.1. Municipality of Argyle personnel and board members must ensure their conduct in relation to procurement activity is consistent with the “Duties of public sector entity employees” in the Public Procurement Act. This includes a request for removal from a procurement activity when a personal conflict of interest is perceived.

d) Other

14.1.d.1. Policy Posting

14.1.d.1.1. Municipality of Argyle personnel will ensure this policy is posted on the Municipality of Argyle web site.

14.1.d.2. Supplier Development Activities

14.1.d.2.1. Municipality of Argyle personnel will make every attempt where appropriate to participate in vendor outreach activities as requested by the Procurement Governance Secretariat

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14.1.d.3. Regulations

- 14.1.d.3.1. Municipality of Argyle personnel will make sure that procurement practices remain consistent with any regulations that are adopted under the Public Procurement Act.

15. AMENDMENTS

- 15.1.** Any amendments of this Policy will be communicated to the public on the Municipality of Argyle's website.

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Appendix 1

Alternative Procurement Approval, Consultation, and Reporting Process

Only those holding the appropriate role/position within the *Municipality of Argyle* may delegate signing authority.

Low & Medium Value:

The Department Head will be accountable for the proper use of alternative procurement transactions.

High Value:

Municipality of Argyle personnel wishing to make use of a high value alternative procurement practice (with the exception of an emergency) must consult with the *Chief Administrative Officer* to obtain his or her approval and identify the most appropriate means by which to proceed with the satisfaction of the requirement. If in agreement, the *Chief Administrative Officer* may direct *Municipality of Argyle* personnel to proceed with the procurement. The *Chief Administrative Officer* may wish to confer with provincial government procurement officials for discussion, validation, and or alternative options.

The *Chief Administrative Officer* may delegate signing authority for high value alternative procurement transactions to an Acting *Chief Administrative Officer* in his or her absence. All appropriate documentation will be maintained on file for audit purposes. The *Chief Administrative Officer* will ensure persons with delegated signing authority will be held accountable for their actions. The *Chief Administrative Officer* shall remain accountable for the proper use of alternative procurement transactions.

Alternative Procurement Circumstances

The Province of Nova Scotia is currently reviewing ALTP circumstances and will be issuing regulations that outline best practices in this area. Once issued by the Province, these revisions will be reviewed for incorporation into this Policy.

A. No Threshold Restrictions

Municipality of Argyle personnel may use the following Alternative Procurement practices as described below for the procurement of goods, services, construction or facilities, with no threshold restrictions:

1. Where an unforeseeable situation of urgency exists and the goods, services, or construction cannot be obtained in time by means of open procurement procedures. Entities must ensure inadequate planning does not lead to inappropriate use of this exemption.
2. Where goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through

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an open tendering process could reasonably be expected to compromise government confidentiality, cause economic disruption, or otherwise be contrary to the public interest.

3. Where compliance with the open tendering provisions set out in this Policy would interfere with a Party's ability to maintain security or order, or to protect human, animal, or plant life or health.
4. In the absence of tenders in response to an open or selective tender, or when the tenders submitted have been collusive, or not in conformity with the essential requirements in the tender.
5. To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licenses, copyright, and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative.
6. Where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists.
7. For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly.
8. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor.
9. For work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work.
10. For the procurement of a prototype or a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases.
11. For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.
12. For the procurement of original works of art.
13. For the procurement of subscriptions to newspapers, magazines, or other periodicals.
14. For the procurement of real property.
15. For the procurement of goods intended for resale to the public.

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16. For the procurement from philanthropic institutions, prison labour, persons with disabilities, sheltered workshop programs, or through employment equity programs.
17. For the procurement from a public body or a non-profit organization.
18. For the procurement of services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation

B. Threshold Restrictions

Municipality of Argyle personnel may use the following Alternative Procurement practices as described below, up to the high value thresholds of this Policy:

1. For the procurement of goods or services for the purpose of evaluating or piloting new or innovative technology with demonstrated environmental, economic, or social benefits when compared to conventional technology, but not for any subsequent purchases.
2. For procurement that fosters the development of minority businesses.

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Appendix 2

Below is an outline of some of the various tools available for use when issuing a public tender:

Request for Proposal (RFP)

Used when a supplier is invited to propose a solution to a problem, requirement, or objective. Suppliers are requested to submit detailed proposals (bids) in accordance with predefined evaluation criteria. The selection of the successful proposal is based on the effectiveness, value, and price of the proposed solution. Negotiations with suppliers may be required to finalize any aspect of the requirement.

Request for Construction (RFC)

Used to publicly tender for a construction, reconstruction, demolition, remediation, repair, or renovation of a building, structure, road, bridge, or other engineering or architectural work. When a supplier is invited to bid on a construction project the tender documents usually contain a set of terms and conditions and separate bid form that apply to that specific project. Suppliers are requested to submit a response (bid) in accordance with predefined criteria. The selection of the successful proposal is based on a number of factors as described in the tender documents. A request for construction usually does not include professional consulting services related to the construction contract, unless they are included in the specifications.

Request for Quotation (RFQ)

A request for quotation on goods or products with a minimum specification. Award is usually made based on the lowest price meeting the specification. An RFQ does not normally but may sometimes include evaluation criteria.

Request for Standing Offer (RSO)

A public tender to provide commonly used goods or services. The term of the standing offer can vary in duration but will be clearly defined in the tender documents. RSO's may include evaluation criteria depending on the requirement.

Request for Expression of Interest (REI)

The Request for the Expression of Interest is similar to the Request for Proposal and is sometimes referred to as a Pre-Qualification, where suppliers are invited to propose a solution to a problem. The REI, however, is only the first stage in the procurement process. Bidders responding to the REI will be short listed according to their scoring in the evaluation process. The short listed firms will then be invited to respond to a subsequent Request for Proposal. A REI does not normally include pricing as price is a key evaluation criteria used in the second stage RFP process.

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Chief Administrative Officer's Annotation for Official Policy Book

Date of Notice to Council Members
Of Intent to Consider [7 days minimum]: February 3, 2020

Date of Passage of Current Policy:

I certify that this Policy was adopted by Council as indicated above.

Warden

Date

Chief Administrative Officer

Date