

THE CORPORATION OF THE TOWNSHIP OF CONMEE  
BY-LAW NO. 940

Being a By-law to govern the procurement and purchasing policies and procedures for the Township of Conmee.

**WHEREAS** Section 271 of the Municipal Act, 2001 imposes upon municipalities the obligation to adopt policies with respect to the procurement of goods and services;

**AND WHEREAS** this By-law establishes the authority and sets out the methods by which goods and services are purchased and disposed of;

**NOW THEREFORE** the Council for the Corporation of the Township of Conmee enacts as follows:

1. **PURPOSES, GOALS AND OBJECTIVES**

The purposes, goals and objectives of this by-law and each of the methods of procurement authorized are:

- a) to encourage competition among suppliers
- b) to maximize savings for the taxpayer
- c) to ensure service and product delivery, quality, efficiency and effectiveness
- d) to ensure fairness among bidders
- e) to ensure openness, accountability and transparency while protecting the financial interests of the Township
- f) to have regard to the accessibility for persons with disabilities to the goods and services purchased by the Township.

2. **DEFINITIONS**

**“APPROVED INVOICE”** means an original supplier’s invoice issued at the time of purchase of low dollar goods or services not exceeding \$499 and which bears the signature of an appropriately authorized employee.

**“AWARD”, “AWARDED” AND “AWARDING”** means authorization to proceed with the purchase of goods or services from a chosen supplier.

**“BID”** means an offer or submission from a supplier in response to a bid solicitation.

**“BID BOND”** means the form of security required by the terms and conditions of bid solicitation documentation to guarantee that the successful bidder enters into a contract with the Township of Conmee.

**“BID SOLICITATION”** means a formal request for bids that may be in the form of a Request for Tender or Request for Proposal.

**“CLERK-TREASURER”** means the Clerk-Treasurer of the Township of Conmee.

**“CONSTRUCTION”** means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling seismic investigation, soil investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering design or architectural work, but does not include professional services related to

the construction contract unless they are included in the specifications for the procurement.

**“CONTRACT”** means any agreement, regardless of form or title, for the lease, purchase or disposal of goods or services authorized in accordance with this By-law.

**“COUNCIL”** means the Council for the Corporation of the Township of Conmee.

**“COUNCIL APPROVED BUDGETS”** means Council approved department budgets including authorized revisions, or where applicable, Council approved budgets of local boards to which this By-law applies.

**“DEPARTMENT”** means an organizational unit of the Township of Conmee headed by a Manager.

**“ELECTRONIC ADVERTISING”** means the use of a computer based system directly accessible by suppliers irrespective of their location that provides suppliers with information related to bid solicitations.

**“EMERGENCY”** means a situation, or the threat of an impending situation, which may affect the environment, the life, safety, health and/or welfare of the general public, or the property of the residents of the Township of Conmee, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level.

**“FAIR MARKET VALUE”** means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arms-length where fully informed and not under any compulsion to transact.

**“FINANCING LEASE POLICY”** means the policy passed by Council under the authority of the Municipal Act, 2001, S.O. c. 25, section 110.

**“GOODS”** means moveable property including,

- a) the cost of installing, operating, maintaining or manufacturing such movable property
- b) raw materials, products, equipment and other physical objects of every kind and description.

**“IN HOUSE BID”** means a bid made by a department and authorized by the manager of that department, submitted in response to a bid solicitation, where the provision of the goods or service will be provided entirely by the employees of the Township of Conmee.

**“LOWEST COMPLIANT BID”** means the bid that would provide the Township of Conmee with the desired goods or services at the lowest total acquisition cost, meets all the specifications and contains no irregularities requiring automatic rejection.

**“PERFORMANCE BOND”** means a monetary amount to be determined by Council to ensure that the contract is completed as detailed.

**“PROFESSIONAL SERVICES”** means persons having a specialized knowledge or skill for a defined service requirement including;

- a) architects, engineers, designers, management and financial consultants
- b) firms or individuals having specialized competence in environmental, planning or other disciplines.

**“PROPOSAL”** means an offer submitted in response to a Request for Proposal, acceptance of which may be subject to further negotiation.

**“RELATIVE”** shall mean the employee/Council member’s spouse or same-sex partner, parent, step-parent or foster parent, a child, step-child or foster child, a grandparent, step-grandparent or foster grandparent, a brother, step-brother or foster brother, or a sister, a step-sister, a foster sister, or brother-in-law or sister-in-law. This policy also includes any other person who is dependent on the employee/Council member for care or assistance.

**“REQUEST FOR PROPOSAL”** mean a bid solicitation that is used to acquire goods or services, the suitability of which is dependant upon non-price factors and which may result in further negotiation between the parties.

**“SERVICES”** includes all professional and consulting services, all services in relation to real property or personal property including without limiting the foregoing, the deliver, installation, construction, maintenance, repair, restoration, demolition or removal of personal property and real property and all other services of any nature and kind save and except only services to be delivered by an officer or employee of the Township of Conmee in accordance with the terms of employment.

**“TENDER”** means a publicly advertised bid solicitation.

**“TOTAL ACQUISITION COST”** means an evaluation of quality and service in the assessment of a bid and the sum of all costs including purchase price, all taxes, warranties, local service costs, live cycle costs, time of completion of delivery, inventory, carrying costs, operating and disposal costs for determining the lowest compliant bid.

3. **GENERAL PROCUREMENT POLICY**

The procedures in this By-law shall be followed to award a contract or to recommend to Council that a contract be awarded.

The purchase of goods or services listed in Schedule “A” to this By-law may be made provided that sufficient funds are available and identified in appropriate accounts within Council approved budgets.

4. **RESTRICTIONS**

No contract for goods or services may be divided into two or more parts to avoid the application of the provisions of this By-law.

No contract for services shall be awarded where the services would result in the establishment of an employee-employer relationship.

No employee shall purchase, on behalf of the Township of Conmee, any goods or services except in accordance with this By-law.

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

- a) shall immediately disclose the interest to the Manager involved in the award of the contract and shall describe the general nature thereof
- b) shall not take part in the award of the contract
- c) shall not attempt in any way to influence the award of the contract.

An employee has an indirect pecuniary interest in any contract in which the Township of Conmee is concerned if:

- a) the employee or his or her spouse or same-sex partner
  - i) is a shareholder in, or a director or senior officer of , a corporation that does not offer its securities to the public that has a pecuniary interest in the contract.
  - ii) Has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public that has a pecuniary interest in the contract.
  - iii) Is a member of an incorporated association or partnership, that has a pecuniary interest in the matter.
  - iv) The employee or his or her spouse or same-sex partner is in the employment of a person, unincorporated association or partnership that has a pecuniary interest in the contract.

All Council members shall conduct themselves in accordance with the Municipal Conflict of Interest Act, R.S.O. 1990, c M.50, as amended.

5. **TOTAL ACQUISITION COST**

Where this By-law prescribes dollar limits, the contract amount shall be the estimated total acquisition cost less any rebates.

6. **PRESCRIBED COUNCIL APPROVAL**

Despite any other provisions of this By-law, the following contracts are subject to Council approval:

- a) any contract requiring approval from the Ontario Municipal Board
- b) any contract where the total acquisition cost is greater than the Council approved budget
- c) any contract where an irregularity precludes the award of a contract to the supplier submitting the lowest bid
- d) any contract where a good or service is available from only one source of supply and the total acquisition cost of such good or service exceeds \$25,000 or where a bid solicitation has been restricted to a single source of supply because standardization or compatibility is the overriding consideration.

7. **RESPONSIBILITIES AND AUTHORITIES**

Managers shall be responsible for and shall have authority for all procurement activity and decisions within their Departments and may delegate their authority where appropriate.

8. **NOTIFICATION OF PROCUREMENT OPPORTUNITIES**

Notification of procurement opportunities for goods and services exceeding a total acquisition cost of \$25,000 may be made by electronic advertising and may be used for other purchases

Notification of procurement opportunities for goods or services may be supplemented by other means of notification where appropriate.

9. **PROCUREMENT PROCEDURES**

The Township shall establish purchasing procedures consistent with the purposes, goals and objectives set out in this By-law relating to:

- a) the form, content and use of forms, whether electronic or printed, including requisitions, bonds, letters of credit and other forms of guarantee or surety, tender, proposal and other contract documents.
- b) The identification of those goods or services which are more effectively acquired through co-operative purchases
- c) The process to be followed in the issuing, receipt and evaluation of tenders and requests for proposals including the option of submitting documentation, payment or signature by electronic means pursuant to the Electronic Commerce Act, S.O. 2000, c 17 as amended
- d) Any other aspect of process or procedure not specifically provided for in this By-law

10. **REQUEST FOR EXPRESSIONS OF INTEREST**

Managers may conduct a request for expression of interest for the purposes of determining the availability of suppliers of goods or services and for the purposes of keeping a list of available suppliers.

11. **PURCHASING METHODS**

The purchasing methods for the purchase of goods or services are listed in Schedule "B"

12. **PURCHASES NOT EXCEEDING ONE HUNDRED (\$100) DOLLARS**

The Treasurer shall have authority to establish petty cash funds in such an amount to meet the requirements of a Department for the acquisition of goods or services having an individual total acquisition of \$100 or less.

Purchases made pursuant to this Section shall be made from the competitive market place wherever possible.

All petty cash fund disbursements shall be evidenced by vouchers and shall be available for auditing purposes.

13. **PURCHASES BETWEEN ONE HUNDRED AND ONE (\$101) DOLLARS AND FOUR HUNDRED AND NINETY-NINE (\$499) DOLLARS**

Purchasing requirements for goods or services having an estimated total acquisition cost between \$101 and \$499 shall be allowed, provided the amounts have already been included in the approved budget.

In appropriate circumstances, the request for proposal or request for tender process may be utilized for the purchase of goods or services within this total acquisition cost range.

14. **PURCHASES BETWEEN FIVE HUNDRED (500) DOLLARS AND NINE THOUSAND NINE HUNDRED AND NINETY-NINE (\$9,999) DOLLARS**

Purchasing requirements for goods or services having an estimated total acquisition cost between \$500 and \$9,999 shall be allowed, provided the amounts have already been included in the approved budget.

In appropriate circumstances, the request for proposal or request for tender process may be utilized for the purchase of goods or services within this total acquisition cost range.

15. **PURCHASES EXCEEDING TEN THOUSAND (10,000) REQUEST FOR TENDER**

A request for tender shall be used for purchases exceeding \$10,000 where all of the following criteria apply:

- a) three or more sources if available are considered capable of supplying the requirement
- b) the requirement is adequately defined to permit the evaluation of tenders against clearly state criteria
- c) it is intended that the lowest compliant bid will be accepted without negotiations
- d) Lowest or any tender not necessarily accepted.

A request for proposal shall be used where one or more of the criteria for issuing a request for tender cannot be met such as:

- a) owing to the nature of the requirement, suppliers are invited to propose a solution to a problem, requirement or objective, and the selection of the supplier is based on the effectiveness of the proposed solution rather than on price
- b) it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement
- c) evaluations of proposals shall consider such things as approach, equipment and facilities, experience and qualifications, methodology, past performance, scheduling, price and strategy

16. **GUARANTEE OF CONTRACT EXECUTION AND PERFORMANCE**

The Township may require that a bid be accompanied by a bid bond or other similar security to guarantee entry into a contract. Unless otherwise specified, in circumstances where a bid bond or other security is required, the refundable deposit requirements for requests for tenders and requests for proposals shall be as follows:

- a) Estimated total acquisition cost - \$25,000 or less – 5%
- b) Estimated total acquisition cost – over \$25,000 – 10%

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

- a) a performance bond to guarantee the performance of the contract
- b) a payment bond to guarantee the payment for labour and materials to be supplied in connection with a contract.

The appropriate means to guarantee execution and performance of a contract shall include but not be limited to, certified cheque, bank draft, irrevocable letter of credit, money order or bid bond.

Prior to commencement of work, evidence of insurance coverage satisfactory to the Township must be obtained, ensuring indemnification of the Township from any and all claims, demands, losses, costs or damages resulting from the performance of a bidder's obligations under the contract, and from any other risk determined by Council as requiring coverage.

17. **EMERGENCY PURCHASES**

Where an emergency exists requiring the immediate procurement of goods or services, the required goods and services shall be made by the most expedient and economical means, notwithstanding the requirements of this By-law. For all emergency purchases, Council shall be notified as

soon as possible with a written report detailing the circumstances of the emergency.

18. **CO-OPERATIVE PURCHASING**

The Township of Conmee may participate with other government agencies or public authorities in co-operative purchasing where it is in the best interests of the Township to do so and where the purposes, goals and objectives of this By-law are complied with by such government agencies or public authorities.

19. **IDENTICAL TENDERS**

If the lowest compliant bids from two or more bidders are identical in total acquisition price or unit price the Township shall enter into negotiations with the bidders who have submitted the identical prices in an attempt to obtain a lesser price.

Such negotiations shall be confidential in their entirety, except for a final total cost agreement.

When negotiations are not successful in breaking the identical tenders, then the successful bidder shall be determined by coin toss. The coin toss shall be performed in the presence of a quorum of Council.

20. **BID IRREGULARITIES**

The process for administering irregularities contained in bids pertaining to all contracts shall be as set out in Schedule "C".

21. **SURPLUS AND OBSOLETE GOODS**

The Township may dispose of all goods for which it no longer has a use, and may be disposed of by, without limitation, public auction, public tender, trade, negotiated sale or transfer to another department.

Employees who declare goods as surplus, shall not bid on or personally obtain any of those goods.

No member of Council shall be permitted to receive surplus goods or obsolete goods except by purchase at public auction, public tender, trade or negotiated sale.

22. **ACCESS TO INFORMATION**

The disclosure of information received relevant to the issue of bid solicitations or the awarding of contracts shall be in accordance with the Municipal Freedom of Information and Protection of Privacy Act.

23. **BY-LAW REVIEW**

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

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

24. **EFFECTIVE DATE**

This By-law shall come into force and effect on the date of passing thereof.

25. **REPEAL**

This By-law repeals any existing purchasing by-laws or policies of the Township of Conmee.

Read a first and second time this 27th day of January, 2009

Read a third time and finally passed this 27th day of January, 2009

THE CORPORATION OF THE  
TOWNSHIP OF CONMEE

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Reeve

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Clerk



## **SCHEDULE "A"**

To By-law No. 940

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

- a) registration and tuition fees for conferences, conventions, courses and seminars
- b) magazines, books, periodicals
- c) memberships
- d) advances
- e) meal allowances
- f) travel and entertainment
- g) payroll deductions remittances
- h) medical
- i) licences
- j) debentures
- k) grants
- l) damage claims
- m) petty cash replenishment
- n) tax remittances
- o) committee fees
- p) legal fees
- q) funeral or burial expenses
- r) advertising services including radio, television, newspaper
- s) veterinary expenses

**SCHEDULE "B"**

To By-law No. 940

**PURCHASING METHODS**

<u>Procedure</u>	<u>Cost of Goods or Service</u>
Approved invoice or Petty Cash	\$499 or less
Agreement,	\$100 to \$9,999
Agreement, Request for Tender or Request for Proposal	\$10,000 or more

**SCHEDULE "C" To By-law No. 940**

<b><u>IRREGULARITY</u></b>	<b><u>RESPONSE</u></b>
Late Bids	Automatic rejection and not opened or read publicly
Unsealed Envelopes	Automatic rejection
Insufficient Financial Security (No Bid Security or agreement to bond or insufficient Bid bond or agreement to bond)	Automatic rejection
Bids completed and/or signed in erasable medium	Automatic rejection
All required sections of Bid documents not completed	Automatic rejection unless, in the consensual opinion of the Council or designate, the incomplete nature is trivial or not significant
Qualified Bids (Bids qualified or restricted by an attached statement	Automatic rejection unless, in the consensual opinion of the Council or designate, the incomplete nature is trivial or not significant
Bids received on documents other than those provided or specified by Council	Automatic rejection
Bids Containing Minor Obvious Clerical Errors	48 hours to correct and initial errors
Failure to execute Agreement to Bond (Sureties Consent) or Bonding company corporate seal or signature missing from Agreement to Bond	Automatic rejection
Failure to execute Bid Bond by Bidder and Bonding Company	Automatic rejection
Corporate Seal of the Bidder and Bonding Company Missing	48 hours to correct
Corporate Seal or signature missing: signatory's authority to bind the corporation or signature missing	48 hours to rectify situation
Corporate Seal and signature missing; signatory's authority to bind the corporation and signature missing	Automatic rejection
Erasures, Overwriting or Strike-Outs which are not initialled	Automatic rejection

<p>Unit prices in the Schedule of Prices have been changed but not initialled and the Contract totals are inconsistent with the price as changed</p>	<p>48 hours to initial. The determination of what constitutes trivial or insignificant uninitialled changes shall be made in the consensual opinion of the Council or designate, the incomplete nature is trivial or not significant</p>
<p>Mathematical errors which are not consistent with unit prices</p>	<p>48 hours to initial corrections as made by the Supplies and Services Division</p>
<p>Documents, in which all necessary Addenda, which have financial implication, have not been acknowledged</p>	<p>Automatic rejection</p>
<p>Any other irregularities</p>	<p>The Council or designate, acting in consensus shall have authority to waive other irregularities or grant 48 hours to initial such other irregularities, which they jointly consider to be minor.</p>