



THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BY-LAW 952

A BY-LAW OF THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH, IN THE NORTHWEST TERRITORIES, TO ESTABLISH SPENDING AUTHORITIES REGARDING THE ADMINISTRATION OF FINANCIAL MATTERS OF THE TOWN, PASSED PURSUANT TO SECTIONS 41, 42, 45 AND SUBSECTION 70 (J) AND SECTION 98 OF THE *CITIES, TOWNS AND VILLAGES ACT*, S.N.W.T. 2013, c. 22

WHEREAS, the Council of the Municipal Corporation of the Town of Fort Smith, in the Northwest Territories deems it necessary to establish spending authorities;

NOW THEREFORE, the Council of the Municipal Corporation of the Town of Fort Smith, at a duly assembled meeting enacts as follows:

1. That this By-Law be cited as the Spending Authorities By-Law.
2. That the spending authorities exercised in accordance with the provisions of Section 98 of the *Cities, Towns and Villages Act*.
3. That the spending authority of the Senior Administrative Officer to commit or expend funds from the approved Operational and Maintenance Budget and Capital Budget, be established at "Fifty Thousand Dollars (\$50,000)."
4. That the Senior Administrative Officer may, at his discretion and in writing, pursuant to Schedule "A" attached to an forming part of this by-law, delegate his spending authority to Departmental Directors up to a maximum of \$25,000.
5. That the Senior Administrative Officer may, at his discretion and in writing, pursuant to Schedule "A" attached to and forming part of this by-law, delegate his spending authority to other town employees up to a maximum of \$5,000.
6. That any expenditure in excess of Fifty Thousand Dollars (\$50,000.00) requires approval by motion of Council.
7. That the Senior Administrative Officer is hereby authorized to administer the spending authority as set out in Schedule "B" "Purchasing and Tendering Policy" attached to and forming part of this By-law,
8. That By-law 809 and 864 are hereby repealed.

READ A FIRST TIME THIS 16th DAY OF June, 2015 A.D.

READ A SECOND TIME THIS 16th DAY OF June, 2015 A.D.

READ A THIRD TIME THIS 16th DAY OF June, 2015 A.D.

MAYOR

SENIOR ADMINISTRATION OFFICER

I hereby certify that this bylaw has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the bylaws of the Municipal Corporation of the Town of Fort Smith.

SENIOR ADMINISTRATION OFFICER



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SCHEDULE "A"

BY-LAW # 952

SPENDING AUTHORITY AUTHORIZATION FORM

Department: _____ Date: _____

Title: _____

Authorization Description

Maximum Authorized Amount \$ _____

I, _____, Position, _____, is hereby authorized to commit or expend on behalf of the Town of Fort Smith as described above.

Senior Administrative Officer

Date

I have read and I am fully conversant with the items outlined in By-law # 952

Signature of Incumbent

Date



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SCHEDULE "B"

BY-LAW # 952

PURCHASING AND TENDERING POLICY

PURCHASING

1. Transaction under \$1500.00

Purchase of materials and/or services up to but not exceeding \$1500.00 may be sole sourced from a supplier or contractor who, in the normal course of their business, would provide these materials and/or services.

2. Transactions between \$1501.00 and \$5,000.00

Purchase of materials and/or services between \$1501.00 and \$5000.00 need not be tendered. Quotes are to be recorded and serve as back-up should documentation be required at the time the order is placed. The quotation sheet is to be attached to the purchase order or contract copy.

A minimum of two suppliers is acceptable for requests for materials and/or services of more than \$1500.00 but not exceeding \$5000.00. Written quotations may be used for this level if more permanent documentation is required or advisable.

Sole sourcing may be permitted providing that there is no other supplier or contractor available to provide the material and/or services. A report must be attached to the purchase order or contract copy to support the sole sourcing.

3. Transactions between \$5001.00 and \$50,000.00

Purchase of materials and/or services between \$5001.00 and \$50,000.00 are to be awarded on the basis of written quotations. Tenders may be done on an invitational basis.

4. Transactions over \$50,000.00

Purchase of materials and/or services over \$50,000.00 are to be awarded on the basis of a formal tender process as outlined in the tendering procedures.

TENDERING

1. Definitions

- a. Public Tender – are tenders which are open to the general public and any qualified tenderer may bid. It may be advertised locally and/or out of town. The advertisement should state the time and place for receipt of tenders, a general description of the work and location, conditions of the tender, time and availability of tender documents.
- b. Closed Tender – are tenders which are restricted to resident businesses holding a valid Town of Fort Smith Business Licence.



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- c. Invitational Tender – are tenders in which only certain firms are requested to bid by direct invitation; public notices and newspaper ads are not used. This method of tendering is normally due to time constraints, small projects and/or projects requiring special skills. Documents for invited tenders are normally supplied to only those suppliers or contractors whose licence indicates they are providing the required service. Other suppliers and contractors who specifically request tender documents and who ask to be allowed to bid may be added to the list at the discretion of the Senior Administrative Officer or sponsoring Director.
- d. Qualified Tender – is considered qualified, if their tender meets the required specifications; has the financial and technical resources to complete the work and/or supply the goods when required; be able to provide an adequate Security Bond or Deposit; and holds a valid Town of Fort Smith Business Licence, or as qualified by Council Resolution.
- e. Lowest Tender – is interpreted as the lowest qualified tender. Lowest or any tender will not necessarily be accepted.

2. Calling of Tender

- a. Tenders must be carried out for every contract or purchase of materials or services in excess of Fifty Thousand Dollars (\$50,000.00). Tenders may be called by either closed, invitational or public.
- b. A reasonable time limit should be allowed for suppliers and/or contractors to prepare their tender. The type of material or service being tendered and the complexity or urgency shall determine the length of the tender period.
- c. In exceptional circumstances a purchase of materials or contract for services may be sole sourced. If such a decision is required, justification must be provided to Council for approval and limited to the following:
 - i. there is only one qualified supplier or contractor able to supply the material or service; and
 - ii. the urgency of the requirement would be injurious to the public interest, if delayed
- d. Tenders for contracted services may be called for the provision of labour only; or the provision of materials only; or the provision of materials and labour.

3. Procedure for Tendering

- a. Public and closed tenders shall be advertised and open to all qualified suppliers or contractor.
- b. Council may direct the Senior Administrative Officer on the advertising of tenders exceeding Fifty Thousand (\$50,000.00) Dollars.
- c. Replies to tenders will be directed to the Senior Administrative Officer who will ensure that as tenders are received, the envelopes are date stamped, initialed and kept in a locked safe or cabinet until the date and time fixed for tender opening.
- d. The Senior Administrative Officer or the sponsoring Departmental Director, will at the date and time specified for opening of tenders, ensure that in the presence of at least one other town staff member, and in the presence of those bidders who care to attend the opening, open all tenders received by the tender due date and record the details of each tender received.
- e. Tender openings may be attended by any qualified tenderer.



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- f. The Senior Administrative Officer or the sponsoring Departmental Director shall make available to qualified tenderers, on request:
 - i. The names of persons or companies tendering on the contract.
 - ii. The amount of each qualified tender received.
 - iii. An explanation, where applicable, should the contract not be awarded to the lowest tenderer.
- g. A qualified tender may be withdrawn for any reason up to the time the purchase order or contract being issued. A tender may not be withdrawn after the issue of a purchase order or contract without the approval of Council.
- h. Following the opening of qualified tenders, a change in bid price shall not be accepted. A correction may be accepted at the discretion of the Senior Administrative Officer on tenders less than Fifty Thousand Dollars (\$50,000.00) and at the discretion of Council on tenders in excess of Fifty Thousand Dollars (\$50,000.00).
- i. The Senior Administrative Officer or the sponsoring Departmental Director shall prepare a summary of all the tenders opened and ensure that all required documents, deposits or other data are checked for accuracy. This information will be presented to Council on tenders exceeding Fifty Thousand Dollars (\$50,000.00).
- j. The Senior Administrative Officer shall report to the Committee of the Whole or appropriate Committee of Council for recommendation to Council on any invitational tender exceeding Fifty Thousand Dollars (\$50,000.00).
- k. Tenders in excess of Fifty Thousand Dollars (\$50,000.00) shall be reviewed by the Committee of the Whole or appropriate Committee of Council and shall recommend to Council the successful tender. Council shall at a Regular Meeting or Special Meeting award the contract, as early as practical, after the closing date of the tender.
- l. When a purchase order or contract is placed with a supplier or contractor, the purchase order or contract becomes a legal document that both Council and the supplier or contractor is obliged to honour.

4. Accepting the Tender

- a. Tenders for material and/or contracted services up to \$50,000 may be reviewed and awarded by the Senior Administrative Officer in consultation with the sponsoring Departmental Director.
- b. Tenders for material and/or contracted services in excess of Fifty Thousand Dollars (\$50,000.00) shall be reviewed by the Committee of the Whole or the appropriate Committee, in consultation with the sponsoring Departmental Director, and recommended to Council for approval.
- c. The Council, Mayor or Senior Administrative Officer, in consultation with the sponsoring Departmental Director, reserves the right to reject any or all tenders.
- d. Notwithstanding the levels of authority, any tender less than Fifty Thousand Dollars (\$50,000.00) may be submitted to Council for approval.



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5. Bid, Performance, Maintenance or Security Bonds

- a. All tenders, where required or otherwise stated by Council resolution, shall be subject to a bid, performance, maintenance or security bond.
- b. Where there is a requirement for a bid, performance, maintenance or security bond, the percentage of the bond may be up to Fifty Percent (50%) of the total value of the accepted tender.
- c. The period of maintenance shall be for a minimum of Twelve (12) months immediately following the date of the completion of the services provided or by a stipulated motion of Council.
- d. A penalty may be imposed for work not completed in a timely fashion. Such penalty shall be determined by motion of Council.

6. Holdbacks on Contract Payments

Unless otherwise stated as a special condition of the Contract, the standard holdback of payment for work in progress or material on site, shall be Fifteen Percent (15%) of the cost of the work done to date or the material on site.

7. Keeping of Records

The Senior Administrative Officer shall ensure that records are kept of all tenders issued and all bids received.

8. Progress or Final Payment

- a. Progress and/or final payment for materials or services will be made by the Senior Administrative Officer to suppliers or contractors upon approval by the sponsoring Departmental Director indicating:
 - i. payment is for work in progress or material on site;
 - ii. payment is a specific condition of the contract;
 - iii. contract is completed to specification and has been accepted by the sponsoring Departmental Director; or
 - iv. the release of any payment holdback on final payment be paid as the contractor has satisfied all specifications and terms of the contract;

Where all specifications and terms of the contract have been met to the satisfaction of the sponsoring Departmental Director, the payment holdback must be remitted to the supplier or contractor not later than thirty-five (35) days from the date of acceptance or completion of the contract.

9. Local Preference

Council or the Senior Administrative Officer, as the case may be, shall allow a tender differential to a local resident licenced business as defined in the Local Preference Policy.

10. Freight Charge

Suppliers or contractors submitting tenders shall ensure all materials and services are listed F.O. B. Fort Smith, NT.