

Purchasing Policy

Recommendation

Municipalities should have a comprehensive and detailed purchasing policy. A purchasing policy should include the municipality's purchasing methods, process, and controls. The comprehensive and detailed nature of the policy should be at the discretion of the municipality, while maintaining the goals of the policy. The Municipal Government Act (MGA) states in Section 67 *Expenses for Municipal Purpose* that:

- Where an Act of the Legislature authorizes or directs a municipality to make an expenditure, enter into a contract or guarantee or take action as a result of which it may be required to pay money, the sums required are for the ordinary lawful purposes of the municipality.¹

Purpose

A purchasing policy is necessary for all municipalities to maintain stability and consistency. However, municipalities should note that a purchasing policy might not necessarily apply to purchases that have been approved in the budget. The municipal purchasing policy may not apply to all of the procedures because some can be considered routine payments. Some examples may include:

- School board payments;
- Predetermined intergovernmental payments; and
- Certain utility payments.

Municipalities should use their discretion in determining which payments are considered routine payments, and those that are not. Routine payments should fall outside of the purchasing policy to maintain and increase efficiency. Any exceptions or unusual situations to the purchasing policy should be directed to Council to make the final decision.

In addition to determining the purchases that should be managed by a purchasing policy, municipalities should establish a purchasing policy for the following reasons:

- Public Accountability
 - Purchasing goods and services on the public's behalf using the public's money should be an open and fair process.
 - A purchasing and reporting process should be documented to prevent any confusion for staff, bidders, and the public.
- Transparency
 - The purchasing process and the activities surrounding the purchasing process should be made accessible to the public.
 - The purchasing process should be made available to all suppliers. The purchasing process should be conducted in a fair and open manner. By

¹ Municipal Government Act. Part IV Finance.
<http://www.gov.ns.ca/snsmr/muns/manuals/pdf/mga/mga04.pdf>.

being open and available to the suppliers, the municipality will select the best bidder, which will benefit the municipality.

- Authority
 - A purchasing policy clearly outlines whose authority is required to make certain purchases.
- Prevent Theft and Fraud
 - A purchasing policy can help reduce the risk of internal theft and fraud by reducing ambiguity and ensuring accountability of the purchasing process.
- Equality
 - A comprehensive purchasing policy can ensure that bidders will be evaluated fairly and consistently.
- Succession Planning
 - A clear and comprehensive purchasing policy can allow new employees to easily conduct purchasing for the municipality. A comprehensive purchasing policy will provide greater continuity.

Background

Purchasing policies should be reviewed and updated on a regular basis. Municipalities need to adjust the purchasing policy to the changing purchasing requirements that may affect a municipality. Some of these conditions may include purchasing thresholds, prices, methods of payments, regulatory requirements, legal requirements, and provincial requirements.

Policy Considerations

The development of a comprehensive purchasing controls policy should consider all of the aspects of purchasing. There are many different methods to procure a good or service, and municipalities should document each purchasing method used. *Appendix I* describes a variety of procurement methods that municipalities should include in its purchasing policy. Similarly, *Appendix II* outlines the procedures that municipalities should include in a purchasing policy. Municipalities should also include controls that can protect the municipality from fraud and theft; as well as ensuring the best vendor is selected for the contract. Furthermore, municipalities should obtain legal advice before formalizing their purchasing policy. Purchasing practices are legal contracts, and a municipality's solicitor should be involved in the formulating the purchasing policy. *Appendix III* outlines a variety of controls that should be part of a purchasing policy. Furthermore, *Appendix IV* discusses ethical and environmental components that could be included as part of a purchasing policy. Lastly, *Appendix V* offers some examples of other municipal purchasing policies that can be found in Nova Scotia.

Appendices

Appendix I: Methods of Procurement

Appendix II: Purchasing Procedures

Appendix III: Purchasing Controls

Appendix IV: Ethical and Environmental Purchasing

Appendix V: Purchasing Policy Examples

Appendix I – Methods of Procurement

Municipalities should clearly outline the different types of purchasing methods in their purchasing policy. The different methods of purchasing align with different situations, and municipal employees should be clear on the action to take when presented with a certain situation. The following is a description of the various types and methods of purchasing a municipality can use. More detailed recommendations can be found in *Appendix II*.

Low Value

Low Value purchases should be used for random purchases. The good or service should not be included in a price agreement or available in inventory. Processes for low value purchases should be developed for each municipality based on their individual circumstances. Municipalities can consider issuing low value purchases using a purchase order, petty cash, or a purchasing card.²

Price Agreement

In order to guarantee a continuous supply of various goods and services, while assuring that the competitive bidding system is maintained, a *Price Agreement* should be established. An arrangement between a municipality and a seller commits the seller to provide goods and services at a specific price for a specific period of time. These arrangements can reduce the number of individual bids and reduce the overall cost because of the higher volume gained.³ In addition to price agreements, municipalities should consider engaging in *cooperative procurement*, by collaborating with other municipalities or the Provincial government for purchasing certain goods or services.

The Provincial government encourages *cooperative procurement* of goods and services used by all levels of the public sector when the arrangement results in overall cost savings or other substantial advantages. Municipalities may participate in *cooperative procurement* when it will benefit both the municipality and the Province.⁴

Request for Quotations

Request for Quotations is an informal request for prices of goods and services. Request for quotations can also be used where the cost of the work does not warrant the time and level of effort required for a formal tender process. Quotations should be written, but they can be verbal depending upon the cost and the time constraints. The quotations should be documented and recorded, even if they are verbal quotations.⁵ The value for a

² Halifax Regional Municipality. Halifax Regional Municipality Administrative Order Number 35 Procurement Policy. November 16, 2006.
<http://www.halifax.ca/legislation/adminorders/documents/procurementpolicy.pdf>.

³ Ibid.

⁴ Province of Nova Scotia Economic Development Procurement Services. Procurement Policy. 2005.
http://www.gov.ns.ca/tenders/policy/pdf_files/ProcurementPolicy.pdf.

⁵ Halifax Regional Municipality. Halifax Regional Municipality Administrative Order Number 35 Procurement Policy. November 16, 2006.
<http://www.halifax.ca/legislation/adminorders/documents/procurementpolicy.pdf>.

request for quotation should be developed for each municipality based on their individual circumstances. See *Appendix II* for further details on when quotations should be used. As a general principle, municipalities should seek at least three or more quotations. If a municipality is unable to receive three quotations, a standard process should be documented to outline the internal procedures to protect both the employee responsible for purchasing and the municipality.

Tender

An invitation to tender solicits competitive bids. A *Tender* is used when detailed specifications are available that permit specific selection against criteria and specifications. A request for tender is a formal, competitive, and sealed bidding process. It is normally used for purchasing goods, services, equipment, and construction. Bid deposits and performance security should be required. Submissions are compared to the specification and requirements contained in the tender documents. The awarded company should be the lowest total cost bid received from a responsible bidder meeting the requirements of the tender.⁶ Although the lowest bidder is most likely awarded the contract, municipalities should make the vendors aware that the contract might not be awarded to the lowest bidder because of extenuating circumstances.

Municipalities may want to consult their solicitor when beginning the tender process. Tender advertisements are subject to case law, and could allow bidders to challenge tender selections.

Two Phase Bids

Where detailed specifications are not available or it is impractical to prepare a specification based on price, a *Two Phase Bid* should be issued. The process could include:

- Phase One: one or more steps where bidders submit proposals to be evaluated, with or without prices.
- Phase Two: only those bidders whose bids were determined to be acceptable will be entitled to submit priced bids for consideration, or where prices have been separately submitted in Phase One, such bids are opened and awarded to the lowest overall cost.⁷

Request for Proposal

A *Request for Proposal* (RFP) is a formal invitation to suppliers to describe how their services, methods, equipment, or products can address and/or meet the specific needs of the municipality. An RFP may be used when a supplier is invited to propose a solution to a problem, requirement, or objective. Unlike tenders, RFPs are compared to each other to assess the best proposals. Municipalities should note that the RFP criteria should be established before the municipality receives the bids in order to maintain fairness in the evaluation process.

⁶ Halifax Regional Municipality. [Halifax Regional Municipality Administrative Order Number 35 Procurement Policy](#). November 16, 2006.
<http://www.halifax.ca/legislation/adminorders/documents/procurementpolicy.pdf>.

⁷ Ibid.

Information sessions may be held with bidders before the final due date for proposals. An interview session may be held to allow the bidders to have a better understanding of the project, and allow for all of the bidders to provide a bid with the most information possible. If a municipality holds an information session, all bidders should be required to be present; otherwise they should be disqualified from the competition.

If municipalities do not present all of the same information for the proposal, problems may arise if the contract becomes more complex after the bidder has been selected. The other competing bidders may have been able to offer a different bid if they had know all of the information. Allowing all of the bidders to have access to the same information will allow for the best possible bid to be presented with the largest degree of competition.

Municipalities should also handle any discussions with the bidders during the bidding process very delicately. The following are some factors that should be considered to ensure fairness and clarity:

- Discussions about the proposal can occur after the proposals have been submitted, but before the bidder has been selected.
- All bidders should be made aware of the questions being asked and answers being provided so that no unfair advantage occurs. The identity of the bidder asking the question should not be disclosed, but all information should be made available to all bidders.

A proposal submitted in response to an RFP does not need to be opened in public, but it should be opened in the presence of at least one witness (typically two staff members). A list of submissions should be made available to the public and any of the bidders upon request; however, municipalities should make themselves aware of any privacy issues before releasing documents. The RFP process needs to be accountable to the public because of the intangible nature of RFPs. RFP outcomes are more subjective than tenders, making the awarded bidder and the municipality subject to more scrutiny.

An award of a contract based on an RFP should be made to the supplier, who was determined to be the most suited to the municipality based upon criteria for evaluation set out in the RFP and equally applied to all proposals.⁸ Municipalities may also want to consider establishing an evaluation committee to decide who is awarded a contract. The evaluation committee should include people who are knowledgeable of the bidding process. Also, an evaluation committee provides greater accountability for the successful bidder selected, where individual biases or preferences can be eliminated with a group decision.

Pre-Qualification of Bidders

In order to eliminate unrealistic tenders and RFPs, municipalities can choose to require bidders to pre-qualify for bidding. Pre-qualification of bidders should not necessarily be applied to every tender or RFP, but it should be considered under specific circumstances;

⁸ Halifax Regional Municipality. Halifax Regional Municipality Administrative Order Number 35 Procurement Policy. November 16, 2006.
<http://www.halifax.ca/legislation/adminorders/documents/procurementpolicy.pdf>.

particularly in instances where relevant experience, capability, references, evaluation of project team members, and other criteria are deemed to be in the best interest of the municipality.⁹ This list of pre-qualified bidders should also be reviewed on a regular basis.

Sole Source Purchase

Sole Source Purchases should only occur when there is only one available supplier of a good or service that meets the needs of the municipality, subject to regular review. Negotiation should be used to complete the terms and conditions for this purchase. A single source purchase should occur when:

- The compatibility with existing equipment, facilities, or service is an important consideration;
- An item is purchased for testing or trial use;
- The municipality purchases supplies for resale;
- A statutory or market based monopoly;¹⁰
- Scarcity of supply in the market;¹¹
- Existence of exclusive rights (patent, copyright, or licence);¹²
- Need to avoid violating warranties and guarantees where service is required;¹³ and
- The municipality has a rental contract with a purchase option.¹⁴

A single source purchase may also be considered for these circumstances:

- A purchase is determined by Council to be fair and reasonable and is made from a non-profit organization supported by the municipality;
- For matters involving security, police matters, or confidential issues, a purchase should be made to protect the confidentiality of the contractor or the municipality.¹⁵

Negotiation

Negotiations should only be used on limited and specific circumstances. If an unusual situation arises, negotiation may be necessary. Any type of negotiations should be consulted with the Solicitor.

⁹ Municipality of the District of Guysborough. Council Policies and Procedures Section-H Purchasing and Tender Policy. November 10, 2004. Pages 132-155.

<http://www.municipality.guysborough.ns.ca/pdfs/policies.PDF>.

¹⁰ City of Toronto. Procurement Processes Policy. November 6, 2006.

http://www.toronto.ca/calldocuments/pdf/procurement_process.pdf.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Halifax Regional Municipality. Halifax Regional Municipality Administrative Order Number 35 Procurement Policy. November 16, 2006.

<http://www.halifax.ca/legislation/adminorders/documents/procurementpolicy.pdf>.

Emergency Purchases

An *Emergency Purchase* should occur when an unforeseen situation creates immediate and serious need that may not be reasonably met by any other procedure. Emergency purchases should occur when:

- A lack of supplies or services may adversely affect the functioning of government, threaten public or private property or the environment, or jeopardize the health or safety of the public.
- Interim contractual arrangement following the expiration, breach of a contract, or the receipt of unacceptable or uncompetitive bids.

Emergency purchases should be completed using the most efficient method possible, but the effect on the budget should be taken into consideration.¹⁶ Municipalities should establish their own emergency measures purchasing and reporting process. The City of Pembroke, ON includes how to conduct emergency purchases in its *Procurement Policy and Procedures Manual*. Section 2.32 of the *Manual*, found at http://www.pembrokeontario.com/content/city_hall/city_departments_a-z/documents/ProcurementPolicy_ProceduresManual.pdf. Municipalities in Nova Scotia may find this example helpful when developing their own emergency purchasing procedures.

Unsolicited Quotations or Proposals

A municipality should make it a practice to not accept *Unsolicited Quotations or Proposals*, but rather, to ensure that the best prices possible are obtained through a competitive bidding process. However, in exceptional cases where a municipality chooses to accept an unsolicited quotation or proposal, the acceptance of such quotations or proposals should only be done in accordance with Council's approval.¹⁷ The Province of Nova Scotia has developed a policy to deal with this sensitive issue, and it states that the Province will accept unsolicited proposals, but they will be subject to a different evaluation process. To view this policy on the Province of Nova Scotia's Unsolicited Proposal Process, please visit:

http://www.gov.ns.ca/tenders/policy/pdf_files/unsolprofinal.pdf.

Bid/Proposal Irregularities

The following *irregularities contained in bids or proposals* received by the municipalities should result in the following actions to be taken by the municipality:

Irregularity	Action
Late response	Automatic rejection
Unsealed envelopes	Automatic rejection
Insufficient Financial Security <ul style="list-style-type: none"> • No deposit, bid bond, letter of credit, or agreement to bond • Insufficient deposit, or bid bond, or agreement to bond 	Automatic rejection

¹⁶ City of Toronto. *Procurement Processes Policy*. November 6, 2006.

http://www.toronto.ca/calldocuments/pdf/procurement_process.pdf.

¹⁷ Ibid.

Response not completed in non-erasable medium and signed in ink	Automatic rejection
Incomplete response	Automatic rejection unless deemed trivial or insignificant
Response received on documents other than those provided by the Municipality	Automatic rejection unless deemed trivial or insignificant
Financial security corporate seal or signature of the bidder missing	Two business days to correct
Both corporate seal and signature of the bidder missing	Automatic rejection
Corporate seal or signature of authorized agents of bonding company missing	Automatic rejection
Uncertified cheques	Automatic rejection
Corporate seal or signature missing	Two business days to correct
Uninitiated changes to responses that are minor (example: the respondent's address is amended by over-writing but is not initialled)	Two business days to initial
Unit prices have been changed but not initialled and the contract totals are consistent with the price	Two business days to initial
Unit prices have been changed but not initialled and the contract totals are not consistent with the price as amended	Automatic rejection

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Mathematical Errors

If there is a discrepancy between the total price and the unit prices, a statement should be included indicating the difference, and the unit price should prevail with the total bid price being adjusted accordingly.¹⁹

Tied Bids

In order to minimize the risk of *tied bids*, bidders should be made aware of terms and conditions that promote best overall value. This should include considerations such as price (including discounts and prompt payment terms), quality, delivery (including response time), service, and past performance.

If two or more bids are identical based on the criteria established by the municipality, the municipality should select the local bidder as a tiebreaker. If all final bidders are local or are all not local, the municipality should conduct a lottery. In the case of two identical bids, a coin toss should decide. With more than two identical bids, a lottery should decide.²⁰

¹⁸ City of Toronto. *Procurement Processes Policy*. November 6, 2006.

http://www.toronto.ca/calldocuments/pdf/procurement_process.pdf.

¹⁹ Ibid.

²⁰ Ibid.

Appendix II – Purchasing Procedures

In addition to identifying the specific type and method of purchasing, municipalities should outline who is responsible for these duties, what authorization is required, and the limits of purchasing. A comprehensive purchasing procedure can help achieve the goals of municipalities.

Responsibilities

All municipal employees should be responsible for:

- Maintaining high legal, ethical, and professional standards in the management of the resources entrusted to them.
- Obtaining the best value for money by achieving the specified needs of quality, health and safety standards, productivity, and service life.
- Using a fair and transparent process when calling for, receiving, and evaluating quotations and proposals.
- Meeting the legal and ethical obligations in the purchase of goods and services by purchase, lease, or barter²¹.
- Considering the environment in all purchasing decisions and selecting environmentally beneficial goods and services where practical.
- Securing expense authorization prior to any purchase, except emergency purchases. All documentation should be retained for review and auditing.
- Using purchasing agreements when the municipality can gain an advantage.
- Identifying and investigating a full range of potential goods or service providers before selecting one for an exclusive contract.
- Obtaining legal assistance or advice if necessary for any non-standard clauses in purchasing contract.
- Ensuring a supplier of goods and services holds a valid business licence (where applicable).²²

Managers should be responsible for:

- Employing trained staff skilled in purchasing techniques including negotiating contractual terms and conditions, cost reduction techniques, and cooperative buying processes.
- Delegating expense authorization in writing to all appropriate levels.
- Ensuring purchases are performed in accordance with this policy.
- Ensuring that corporate standards are adhered to for purchases.²³

The person in charge of purchasing should be responsible for:

- Entering into purchasing contracts on behalf of the municipality.

²¹ **Barter** means an exchange of goods or services between two or more parties where no money changes hands.

²² Town of Banff. Town of Banff Purchasing Policy. <http://www.banff.ca/AssetFactory.aspx?did=219>.

²³ Ibid.

- Coordinating administration and the continuous review of the corporate use of goods and/or services to ensure the municipality is receiving the best quality, quantity, service, and price.
- Advising and assisting in the preparation of bid solicitations and contracts when requested.
- Providing training and documentation to employees on the proper process of purchasing.
- Coordinating purchasing record keeping and retention of records for a period of seven years for auditing purposes.
- Communication regarding all developments in the field of purchasing all government agencies, trade associations, and private businesses.²⁴

Purchasing Authorization Limits

Municipalities need to include different degrees of purchasing authority for its employees. Not all purchasing decisions can be made by Council, it is simply too time consuming and unrealistic. In efforts to increase efficiency and effectiveness, municipalities should include clear rules and standards outlining who has authority to make purchases, and the value of the purchase. In addition to outlining who has authority for which purchases, municipalities should also establish a chain of command, to indicate what signatures are required to make purchases. Clear purchasing authorization limits and frequent internal reviews can help reduce fraud and theft.

Municipalities in Nova Scotia have discretion over how they choose to set their purchasing authorization limits, however, municipalities may choose to set its purchasing thresholds using the *80-20 guideline*. The 80-20 guideline suggests that municipalities should set its lowest threshold based on how much 80% of its purchases are made, while the remaining 20% of the municipality's purchases should be left to the higher thresholds. The reasoning behind this guideline is to reduce the amount of paperwork and red tape associated with purchases. Many of the 80% purchases that fall within the lowest and least guarded threshold are standard and routine purchases, but should still be subject to review. Because these purchases are more frequent and considered routine, instances of theft and fraud can go unnoticed, which makes it necessary for regular internal reviews. Purchases that are higher and less frequent should be subject to greater scrutiny and security, and fall within the higher threshold brackets.

Purchasing Process

In addition to outlining the purchasing thresholds, municipalities should also indicate the purchase process thresholds for the type of purchasing used. Municipalities can consider using the *80-20 guideline* in this forum as well. In order to keep the purchasing process efficient, yet fair, the majority of purchases (80%) should fall within the lowest threshold.

²⁴ Municipal Government Act. Part VI Tax Collection.
<http://www.gov.ns.ca/snsmr/muns/manuals/pdf/mga/mga06.pdf>.

This can maintain a fast purchasing process, benefiting the municipality, the public, and the suppliers.

The following is a recommendation of how municipalities can establish its purchasing process thresholds. The thresholds should be based on at least two factors – dollar value and purchase frequency. The following table provides an example of how a municipality can establish its thresholds based on the level of the dollar value of the purchase and the frequency that the purchases are made.

Low Dollar Value – High Purchase Frequency	<ul style="list-style-type: none"> • Verbal or written quotations from one or more vendors. • Purchased without a purchase order. • Use of normal invoice procedures, municipal purchasing card, or a cheque.
Medium Dollar Value – Medium Purchase Frequency	<ul style="list-style-type: none"> • Receive three written quotations or proposals where practical and beneficial to the municipality. • Purchase order forms will be used except for items such as utilities and rent. • For purchases of a recruiting nature from suppliers, a standing purchase order should be used. • A written Request for Quotation or RFP may be used.
High Dollar Value – Low Purchase Frequency	<ul style="list-style-type: none"> • An advertised and written Request for Quotation, RFP, or Tender should be used. • Advertisements should include a newspaper and/or an online bid advertisement where practical and beneficial to the municipality. • A competitive bidding process should be coordinated. • A comprehensive assessment of the proposals or quotations. • A purchase order form should be used. • A contract may be required.²⁵

The Town of Banff's Purchasing Policy provides Nova Scotia municipalities with an example of how they framed their purchasing process thresholds. It is difficult to prescribe a dollar value to thresholds that can be applicable to all municipalities because there are many different factors that can affect how a municipality chooses to establish its thresholds. This example may not be suited for each municipality, but it is beneficial to see how other municipalities have framed their thresholds. The Town of Banff's purchasing process threshold can be found at:

<http://www.banff.ca/AssetFactory.aspx?did=219>.

Prohibitions

Although Section 67 of the MGA states that municipalities are only permitted to make purchases for purposes of the municipality²⁶, municipalities should still clearly outline

²⁵ Town of Banff. *Town of Banff Purchasing Policy*. <http://www.banff.ca/AssetFactory.aspx?did=219>.

²⁶ Municipal Government Act. *Part IV Finance*. <http://www.gov.ns.ca/snsmr/muns/manuals/pdf/mga/mga04.pdf>.

which purchases are prohibited. Municipalities should also consult their code of conduct when compiling their list of unacceptable purchases. The following is a list of examples of prohibitive activities:

- The splitting of purchases to avoid the requirements of the purchasing policy, including municipal purchasing cards.
- Purchase by any employee or member of Council of any goods and services for personal use, benefit, or gain.
- Purchase by an employee of any goods and services for personal use where freight, brokerage, or other costs are at the expense of the municipality.
- Purchase by the municipality by an employee or member of Council or their immediate families or other source that would result in a conflict of interest.²⁷

Provincial Involvement

The Province of Nova Scotia has enabled municipalities to use the procurement services the Province offers. The Province offers a number of official and unofficial services to Municipalities. The following is a list of services that municipalities can use:

- Approved Provincial buyers will provide advice and information on certain procurement questions;
- Municipalities are required to follow the Atlantic Procurement Agreement, which requires municipalities to start issuing public tenders by June 30th, 2009 for:
 - Goods – greater than \$25,000
 - Services – greater than \$50,000
 - Construction – greater than \$100,000
- Based on the Agreement on Internal Trade, municipalities are required to public post any tenders for:
 - \$100,000 or greater for goods and services
 - \$250,000 or greater for construction
- Municipalities should read Annex 502.4 – Procurement – Provisions for municipalities and municipal organizations in the Agreement on Internal Trade (Consolidated Version) on page 47, which outlines the procurement responsibilities of municipalities (http://www.ait-aci.ca/index_en/ait.htm).
- Municipalities can post their required tenders over the Atlantic Procurement Agreement threshold on the Provincial website (<http://www.gov.ns.ca/tenders>) or a website recognized by the Province (e.g. a municipal website <http://www.halifax.ca/procurement/TenderRFP Awards.html>).
- Link to the Atlantic Procurement Agreement:
http://www.gov.ns.ca/tenders/policy/htm_files/atlpro.htm
- Link to the Agreement on Internal Trade:
http://www.ait-aci.ca/index_en/ait.htm

Municipalities should be aware of Provincial contracts that they can use as a template, and use contracts that are already established by the Province.

²⁷ Town of Banff. Town of Banff Purchasing Policy. <http://www.banff.ca/AssetFactory.aspx?did=219>.

Appendix III – Purchasing Controls

In addition to establishing proper methods of purchasing and outlining the process of procurement, municipalities should also establish a variety of controls to protect the municipality and the ratepayers. This appendix will address five purchasing control policies that municipalities should consider implementing in addition to the purchasing policy.

(1) Right to Reject Debtors and Set-Off Policy

A municipality should establish a policy to reject an offer when the municipality determines that the person making the offer is in any way indebted to the municipality. A policy should be established to retain the sole discretion to reject the offer.²⁸

Under the MGA, Section 119(3) states that *a municipality may set off a sum due from a person to the municipality against a claim that the person has against the municipality.*²⁹ Based on the MGA, municipalities should exercise any legal or equitable right of set-off against any person who becomes indebted to the municipality during the provision of their services.

(2) Policy to Exclude Bids from External Parties Involved in the Preparation or Development of a Specific Request

Municipalities should include a policy to include restrictions on bids from external parties involved in the preparation of a specific request. It may not be fair to completely exclude a bidder from bidding on a tender/RFP if they were solicited to help develop the special request. They may have special expertise in the area requested, which may set them apart from other bidders, thus excluding them from the bidding process may not be in the best interest of the municipality. However, if an external party is involved in the preparation or development of a special request and they do not possess any specific unique characteristics from other firms, this may be inequitable to the other bidders. To ensure fair and equal treatment in its competitive procedures, the municipality should:

- Consider disallowing bidders from submitting a bid to any Tender, Quotation, or Proposal call that the bidders has participated in the preparation of the request; and
- Bidders who fail to comply will result in disqualification of their response to the request.³⁰

The terms of this policy should be included in all municipal purchasing requests as one of the conditions for eligibility for bidders.³¹

²⁸ City of Toronto – Finance Department Policy Statement. [Right to Reject Debtors and Set Off Policy](http://www.toronto.ca/calldocuments/pdf/right_to_reject.pdf). June 27, 2005. http://www.toronto.ca/calldocuments/pdf/right_to_reject.pdf.

²⁹ Municipal Government Act. Part VI. <http://www.gov.ns.ca/snsmr/muns/manuals/pdf/mga/mga06.pdf>.

³⁰ City of Toronto Finance Department Policy Statement. [Policy to Exclude Bids from External Parties Involved in the Preparation or Development of a Specific Call/Request](http://www.toronto.ca/calldocuments/pdf/exclude_bids_from_specific_external_parties.pdf). April 2004. http://www.toronto.ca/calldocuments/pdf/exclude_bids_from_specific_external_parties.pdf.

³¹ Ibid.

(3) Conflict of Interest Policy

A conflict of interest policy refers to a situation where private interests or personal considerations may appear to affect an employee's judgement in acting in the best interests of the municipality. A conflict of interest would include using an employee's position, confidential information, municipal time, materials, or facilities for or the expectation for private gain or advancement. A conflict may occur when an interest benefits any member of the employee's family, friends, or business associates.³² Vendors should also be required to declare a conflict of interest with the municipality. Municipalities should include a conflict of interest policy or statement within their purchasing policy or as part of a separate conflict of interest policy regarding the conduct of their employees.

Persons who are in a position to influence or make the decision on a bid for the municipality should not accept a gift, favour, or service from any individual, organization, or corporation. However, the normal exchange of gifts between friends, the normal exchange of hospitality between persons doing business together, tokens exchanged as part of protocol, or the normal presentation of gifts to persons participating in public functions is acceptable.

When municipalities develop their own conflict of interest policy, they should consult their solicitor to identify the difference between real and perceived conflicts of interest. Municipalities should also consult the Municipal Conflict of Interest Act (<http://www.gov.ns.ca/legislature/legc/statutes/muncpcf.htm>) when developing their own conflict of interest policy. Conflicts of interest may arise during a purchasing process, and municipalities should try to avoid any types of conflict of interest to ensure that the process remains fair and equitable.

(4) Evaluation

Municipalities should establish an evaluation process after a contract has been established between a municipality and a vendor. Each municipality should conduct an evaluation of its purchasing process, by an evaluator or an evaluation committee. In order for an evaluation to be effectively completed, all bids should include clear specifications and evaluation criteria, and terms and conditions that can be applied in a fair and consistent manner to all respondents. The evaluation should include a comparison of the expectations outlined during the bidding process to the actual outcomes performed by the vendor. The evaluation should be focused on the equity and fairness of the purchasing process, not the awarded bidders. The evaluator or evaluation committee should be responsible for a regular evaluation of compliance with the purchasing policy. All reporting should be directed to the audit committee.³³

³² City of Toronto. *Conflict of Interest Policy*.
http://www.toronto.ca/calldocuments/conflict_of_interest_policy.htm.

³³ City of Toronto. *Procurement Processes Policy*. November 6, 2006.
http://www.toronto.ca/calldocuments/pdf/procurement_process.pdf.

Appendix IV – Ethical and Environmental Purchasing

There is an emerging trend to include more than just procedural components and controls in municipal purchasing policies. The following is a list of components that can be included in a municipality's purchasing policy. Many of these suggestions would not act as 'deal breakers' for municipalities when selecting vendors, however, this could encourage vendors to include more ethical components and behaviours to their activities.

Green Procurement

Green Procurement is the inclusion of environmental and sustainable criteria in the purchasing evaluation process. Environmental criteria can ensure that the goods and services are recycled content, an efficient use of resources, use of renewable rather than non-renewable resources, are energy efficient, and reduce waste emissions.³⁴ Environmentally responsible purchasing principles can also be applied in construction design, processes, tendering, and materials. Full consideration should also be given to the long-term and complete costs and benefits of environmentally responsible purchasing.³⁵

An example of a Nova Scotia municipality engaging in green procurement can be found in Kings County. Kings County is promoting the purchase of local farm products to Kings County residents on its municipal website (<http://www.county.kings.ns.ca>). Kings County is also looking to purchasing fuel oil made from local waste food oil. Currently, this is a work in progress, but it is another green initiative being developed by the County.

Child Labour

If municipalities choose to stop using products that have been produced through child labour, municipalities should advise its suppliers that they do not wish to encourage the use of products manufactured in factories where children are used as slave labour or other exploitive circumstances that impedes child development. Bidders should then be required to state where the products have been made, and then preference can be given to bidders whose products have not been developed through child labour.³⁶

Fair Trade Tea/Coffee Purchase

Municipalities can consider supporting fair trade purchases by serving fair trade tea and coffee in its municipal offices, or by awarding preference to bidders who support free

³⁴ City of Vancouver. City of Vancouver Administrative Report.

<http://www.city.vancouver.bc.ca/ctyclerk/cclerk/20040622/a17.htm>.

³⁵ City of Toronto. Environmentally Responsible Procurement Policy.

http://www.toronto.ca/calldocuments/pdf/environment_procurement.pdf.

³⁶ City of Toronto. Purchase of Products Manufactured in Factories Where Children are used as Slave Labour or Other Exploitive Circumstances Which Impedes Child Development.

http://www.toronto.ca/inquiry/inquiry_site/cd/gg/add_pdf/77/Procurement/Electronic_Documents/City_of_Toronto/Procurement_Division/Policy_Template_-_CHILDREN_USED_AS_SLAVE_LABOUR.pdf.

trade. Municipalities could ensure that they only carry fair trade tea and coffee for their staff and municipal visitors. Municipalities could also require bidders to indicate if they support the purchase of coffee from companies that support sustainable agriculture policies in the coffee sector of producing countries, and have received the Transfair/Fair TradeMark Canada label.³⁷

The Town of Wolfville has been declared the “First Fair Trade Town in Canada”. Fair trade helps farmers and their families make a better living by ensuring that they are paid a decent price for their products.³⁸ The Town of Wolfville only serves fair trade tea and coffee at town meetings and in its offices. The Town also promotes fair trade within the town, and acts as a role model for other businesses within the Town.³⁹ This is an initiative that other municipalities in Nova Scotia can adopt in order to promote fair trade products and ethical purchasing.

Purchasing Preferences

Municipalities should give preference to purchasing goods and services from local businesses, where goods and services of an acceptable and equivalent quality are readily available at competitive prices. Preference should also be given to goods made in Canada.⁴⁰ To maintain equality, this clause should be indicated to all bidders before the process has begun.

³⁷ City of Toronto. Purchase of Coffee. <http://www.toronto.ca/calldocuments/pdf/coffee.pdf>.

³⁸ Wolfville becomes Canada’s first Fair Trade Town!
<http://www.axiomnews.ca/NewsArchives/2007/January/January25.htm>.

³⁹ Town of Wolfville. Committee of Council December 4, 2006.

⁴⁰ Town of Banff. Town of Banff Purchasing Policy. <http://www.banff.ca/AssetFactory.aspx?did=219>.

Appendix IV – Purchasing Policy Examples

In order to understand purchasing policies further, municipalities should examine how other municipal governments throughout Nova Scotia have created their own unique purchasing policies. The following is a list of purchasing policies that may be useful examples to help municipalities frame their own purchasing policy.

Municipality of the District of Guysborough

<http://www.municipality.guysborough.ns.ca/pdfs/policies.PDF> (pages 132-155)

Cape Breton Regional Municipality

<http://www.cbrm.ns.ca/portal/civic/policies/ProcurementStatment.asp>

Halifax Regional Municipality

<http://www.halifax.ca/legislation/adminorders/documents/procurementpolicy.pdf>

Town of Antigonish

<http://www.townofantigonish.ca/Policies/Tender%20Policy.pdf>

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<http://www.gov.ns.ca/snsmr/muns/manuals/pdf/mga/mga06.pdf>.

Municipality of the District of Guysborough. Council Policies and Procedures Section-H Purchasing and Tender Policy. November 10, 2004. Pages 132-155.

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Wolfville becomes Canada's first Fair Trade Town!

<http://www.axiomnews.ca/NewsArchives/2007/January/January25.htm>.

Town of Wolfville. Committee of Council December 4, 2006.

<http://www.town.wolfville.ns.ca/council/2006/dec4minutes.pdf>.