

BY-LAW No. 19-2012

**A BY-LAW OF THE TOWNSHIP OF KILLALOE, HAGARTY AND RICHARDS
GOVERNING PROCUREMENT POLICIES AND
PROCEDURES**

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BY –LAW NO. 19-2012
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WHEREAS Section 270 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, Services or Construction will be purchased and disposed of for the purposes of the Township of Killaloe, Hagarty and Richards subject to certain exceptions set out herein;

NOW THEREFORE the Council of the Township of Killaloe, Hagarty and Richards enacts as follows:

PART I - SHORT TITLE

1. This By-Law may be cited as the "Procurement By-Law".

PART II - PURPOSES, GOALS AND OBJECTIVES

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

- a) To encourage competition among suppliers;
- b) To maximize savings for taxpayers;
- 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 best interests of the Township of Killaloe, Hagarty and Richards;
- f) To have regard to the accessibility for persons with disabilities to the Goods, Services and Construction purchased by the Township of Killaloe, Hagarty and Richards;
- g) To attempt to reduce the amount of solid waste requiring disposal through the purchase of environmentally responsible Goods and Services.

PART III - DEFINITIONS AND SCHEDULES

3.

(1) The words and phrases listed below when used in this By-law shall have the following meanings ascribed to them:

"AGENT" means the Department Head responsible for purchasing supplies and services for their department;

"APPROVED INVOICE" means an original supplier's invoice issued at the time of purchase of low dollar Goods or Services not exceeding \$5,000 and which bears both the signature of an appropriately authorized employee and appropriate account number(s);

"AWARD", "AWARDED" and "AWARDING" mean authorization to proceed with the purchase of Goods, Services or Construction 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 Killaloe, Hagarty and Richards, as required by Section 20 of this By-law;

"BID SOLICITATION" means a formal request for Bids that may be in the form of a Request for Tender or Request for Proposal or Request for Quotation;

"BLANKET PURCHASE ORDER" means a Contract between the Township of Killaloe, Hagarty and Richards and a supplier for the supply of regularly ordered Goods or Services at specified unit prices with, where possible, maximum dollar limits, or discounts, but not specified quantities;

"CHIEF ADMINISTRATIVE OFFICER" means the Chief Administrative Officer/Clerk-Treasurer of the Township of Killaloe, Hagarty and Richards;

"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, Services or Construction authorized in accordance with this By-law;

"COUNCIL" means the Council of the Township of Killaloe, Hagarty and Richards;

"COUNCIL APPROVED BUDGETS" means Council approved department budgets including authorized revisions, or where applicable, Council approved budgets of local boards or utilities to which this By-law applies;

"DEPARTMENT" means an organizational unit of the Township of Killaloe, Hagarty and Richards headed by a Department Head;

"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 Killaloe, Hagarty and Richards, 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 arm's length where fully informed and not under any compulsion to transact;

"FINANCING LEASE POLICY" means a policy passed by Council under the authority of the Municipal Act, 2001, S.O. c.25

"DEPARTMENT HEAD" means the person appointed by Council to be responsible for the operation of a Department and/or their designate and includes the person appointed to the position of Chief Administrative Officer;

"GOODS" means moveable property including,

(a) the cost of installing, operating, maintaining or manufacturing such moveable 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 Council, submitted in response to a Bid Solicitation, where the provision of the Goods, Services or Construction will be provided entirely by the employees of the Township of Killaloe, Hagarty and Richards;

"LOWEST COMPLIANT BID" means the Bid that would provide the Township of Killaloe, Hagarty and Richards with the desired Goods, Services or Construction at the lowest Total Acquisition Cost, meets all the specifications and contains no irregularities requiring automatic rejection;

"PROFESSIONAL SERVICES" means persons having a specialized knowledge or skill for a defined Service requirement including,

(a) architects, engineers, designers, management and financial consultants;
and

(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;

"PURCHASE ORDER" means a Contract between the Township of Killaloe, Hagarty and Richards and a supplier to supply a specific quantity of Goods or specific set of Services or specific type of Construction defined by such things as time period, location(s) and price;

"REQUEST FOR PROPOSAL" means a Bid Solicitation that is used to acquire Goods, Services or Construction, the suitability of which is dependent upon non-price factors and which may result in further negotiation between the parties;

"REQUEST FOR TENDER" means a competitive tendering process in which qualified suppliers or contractors, either through public or electronic advertising, or by invitational bid solicitation, are asked to submit sealed bids for construction or for supply of specific and clearly defined goods or services during a specified timeframe.

"REQUEST FOR QUOTATION" is used in soliciting price and delivery quotations that meet minimum quality specifications for a specific quantity of specific goods and/or services. RFQ are usually not advertised publicly, and are used commonly for (1) standard, off-the-shelf items, (2) items built to known specifications, (3) items required in small quantities, or (4) items whose purchase price falls below sealed-bidding threshold. Suppliers respond to a RFQ with firm quotations, and generally the lowest-priced quotation is awarded the contract.

"SERVICES" includes all professional and consulting services, all services in relation to real property or personal property including without limiting the foregoing to the delivery, 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 Killaloe, Hagarty and Richards in accordance with terms of employment;

"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, life cycle costs, time of completion or delivery, inventory carrying costs, operating and disposal costs for determining the Lowest Compliant Bid;

PART IV - GENERAL PROCUREMENT POLICY

APPLICATION

4.

- (1)** The procedures in this By-law shall be followed to Award a Contract or to recommend to Council that a Contract be Awarded.
- (2)** Subject to Section 37, a Department Head may purchase or contract for the

Goods and Services listed in Schedule "A" to this By-law without following the procedures as set out herein.

(3) The purchase of Goods and 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) The following local board(s) are bound by this By-law and Schedule "H" to this by-law shall apply to such local boards:

Killaloe and District Public Library Board

(5) For all purposes of this By-law and this Section, all references to Council shall mean the governing body of each of the following local board(s):

Killaloe and District Public Library Board

(6) For all purposes of this By-law and this Section, all references to the Chief Administrative Officer of the Township shall mean the following persons associated with the relevant local board(s):

Killaloe and District Public Library Board – Chief Administrative Officer/Clerk-Treasurer

RESTRICTIONS

5.

(1) No Contract for Goods, Services or Construction may be divided into two or more parts to avoid the application of the provisions of this By-law.

(2) No employee shall purchase, on behalf of the Township of Killaloe, Hagarty and Richards, any Goods, Services or Construction, except in accordance with this By- Law.

(3) Where an employee involved in the Award of any Contract, either on his or her 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 Department Head 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; and

(c) shall not attempt in any way to influence the Award of the Contract.

- (4) An employee has an indirect pecuniary interest in any Contract in which the Township of Killaloe, Hagarty and Richards is concerned, if,
- (a) the employee or his or her spouse or same-sex partner 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,
 - (b) 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, or
 - (c) is a member of an incorporated association or partnership, which has a pecuniary interest in the matter; or
 - (d) 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.
- (5) All Council members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended.

TOTAL ACQUISITION COST

6. Where this By-law prescribes dollar limits, the Contract amount shall be the estimated Total Acquisition Cost less any rebates.

PRESCRIBED COUNCIL APPROVAL

7. 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, Service or Construction is available from only one source of supply and the Total Acquisition Cost of such Goods, Service or Construction 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;
 - (e) any Contract where the Request for Proposal method of purchase of Goods, Services or Construction is being used and the estimated value of

the Goods, Services or Construction exceeds \$100,000;

- (f) when any Contract is required in accordance with a Township of Killaloe, Hagarty and Richards' Financing Leasing Policy.

RESPONSIBILITIES AND AUTHORITIES

8. Department Heads shall be responsible for and shall have authority for all procurement activity and decisions within their Departments and may delegate their authority, where appropriate, subject to prior council approval.

NOTIFICATION OF PROCUREMENT OPPORTUNITIES

9.

- (1) Notification of procurement opportunities for Goods, Services or Construction exceeding a Total Acquisition Cost of \$10,000 may be made by Electronic Advertising and may be used for any other purchases.
- (2) Notification of procurement opportunities for Goods, Services or Construction may be supplemented by other means of notification where appropriate.

PART V - PROCUREMENT PROCEDURES

PURCHASING PROCEDURES

10.

- (1) Purchasing procedures consistent with the Purposes, Goals and Objectives set out in this By-law are as outlined in the following table: (Table #1)

COMPETATIVE PROCESS SEEKING MULTIPLE BIDS OR PROPOSALS – TABLE #1

ITEM	Request for Proposal	Request for Tender	Request for Quotation	Informal, Low Value Procurement	Non-Competitive Procurement
Sealed bids or sealed proposals required	Moderate to High Likelihood	Always	Low Likelihood	Not Applicable	
Issue a Request for Information or a Request for Expression of Interest/Pre-Qualification prior to or in conjunction with a call for bids or proposals	Moderate to High Likelihood	Low to Moderate Likelihood		Not Applicable (needs statement may still be required)	
Call for bids or proposals advertised	Done in accordance with requirements of interprovincial trade agreements when estimated procurement value is \$100,000 or more; otherwise done sometimes	Always	Same as Request for Proposal	Not Applicable	
Formal process used to pre-qualify bidders/proponents (i.e. Request for Pre-qualification)	Low to Moderate Likelihood		Low Likelihood	Not Applicable	
Seek bids or proposals from known bidders/proponents (Bidders List)	Always	Low to Moderate Likelihood	Always	Moderate to High Likelihood	
Bids or proposals opened and announced at a public meeting (excluding proprietary information)	Moderate to High Likelihood	Always	Moderate to High Likelihood	Not Applicable	
Type of Agreement with Supplier	Purchase Order, legally executed agreement, or blanket contract (standing agreement/offer)			Purchase by cash, purchase order, or credit card	Cash, purchase order, credit card, legally executed agreement, or blanket contract (standing agreement/offer)
May include in-house bidding in addition to external bidding	Low to Moderate Likelihood			Not Applicable	

BLANKET PURCHASE ORDERS

11.

(1) A Blanket Purchase Order may be used where:

- (a) one or more Departments repetitively order the same Goods, Services or Construction and the actual demand is not known in advance; or
- (b) a need is anticipated for a range of Goods, Services or Construction for a specific purpose and for which convenience and location are major factors but the actual demand is not known at the outset.

(2) The Department Head shall establish and maintain Blanket Purchase Orders.

(3) To establish prices and select sources, the Department Head shall employ the provisions contained in this by-law for the acquisition of Goods, Services or Construction.

(4) More than one supplier may be selected where it is in the best interests of the Township of Killaloe, Hagarty and Richards and the Bid Solicitation allows for more than one.

(5) The expected quantity of the specified Goods, Services or Construction to be purchased over the time period of the agreement will be as accurate an estimate as practical and be based, to the greatest extent possible, on previous usage adjusted for any known factors.

REQUEST FOR EXPRESSIONS OF INTEREST

12. A Department Head or his/her Designate may conduct a request for expression of interest for the purposes of determining the availability of suppliers of any Goods, Services or Construction and for the purposes of keeping a list of available suppliers.

PURCHASING METHODS

13. The purchasing methods for the purchase of Goods, Services or Construction are listed in Schedule "F".

PURCHASES NOT EXCEEDING FIVE HUNDRED (\$500) DOLLARS

14.

(1) The Chief Administrative Officer/Clerk-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, Services or Construction having an individual Total Acquisition Cost of \$500 or less.

- (2) Purchases made pursuant to this Section shall be made from the competitive market place wherever possible and may be made by using an Approved Invoice, Petty Cash, a Credit Card or a Purchase Order, subject to SECTION 37.
- (3) All petty cash fund disbursements shall be evidenced by vouchers and shall be available for auditing purposes through the CAO/Clerk-Treasurer.

PURCHASES BETWEEN ZERO (\$00.00) DOLLARS AND FIVE THOUSAND (\$5,000) DOLLARS

15.

- (1) Purchasing requirements for Goods, Services or Construction having an estimated Total Acquisition Cost between \$00.00 and \$5,000 may be made by using either a Credit Card or Purchase Requisition, subject to Schedule 33.
- (2) Single purchases of Goods, Services or Construction using a Credit Card shall not exceed \$5,000.
- (3) In appropriate circumstances, the Request for Proposal or the Request for Tender processes may be utilized for the purchase of Goods, Services or Construction in this Total Acquisition Cost range.
- (4) The procedure used to purchase the Goods, Services or Construction in this Total Acquisition Cost range shall demonstrate that Fair Market Value was achieved.

PURCHASES EXCEEDING FIFTY THOUSAND (\$50,000) DOLLARS

REQUEST FOR TENDER

16.

- (1) A Request for Tender shall be used for purchases exceeding **\$50,000** where all of the following criteria apply:
 - (a) two or more sources are considered capable of supplying the requirement;
 - (b) the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria; and
 - (c) it is intended that the Lowest Compliant Bid will be accepted without negotiations.

- (2) The Department Head in charge of the Bid Solicitation or his/her Designate, on behalf of such Department Head, may Award Contracts emanating from a Request for Tender with prior Council approval, provided that;
 - (a) the Award is to the Lowest Compliant Bidder;
 - (b) sufficient funds are available and identified in appropriate accounts within Council Approved Budgets; and
 - (c) the provisions of this By-law are complied with.
- (3) The Department Head shall follow the provisions of Schedule F regarding the form of contract required to complete the purchase.

REQUEST FOR PROPOSAL

17.

- (1) A Request for Proposal may 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 alone; or
 - (b) it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement.
- (2) Where the Contract price is anticipated to be \$100,000 or greater and the Request for Proposal method of procurement is utilized, the Department Head shall be a member of a committee, if one is formed, to evaluate the response to the Request for Proposal.
- (3) A Request for Proposal may contain an evaluation grid.
- (4) The Department Head shall maintain a list of suggested evaluation criteria for assistance in formulating an evaluation grid, which criteria may include, but are not limited to, factors such as approach, equipment and facilities, experience and qualifications, methodology, past performance and scheduling, price and strategy.

IN HOUSE BIDS

18. In House Bids may be used for the procurement of Goods, Services or Construction in circumstances where Council considers it appropriate to do so.

GUARANTEE OF CONTRACT EXECUTION AND PERFORMANCE

19.

- (1)** The Council 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:

ESTIMATED TOTAL ACQUISITION COST	MINIMUM DEPOSIT REQUIRED
All tenders/requests for proposals	10% of total contract

- (2)** Prior to the commencement of the work, the successful bidder may be required to provide the following security in addition to the security referred to in Subsection 19(1):
- (a) a performance bond to guarantee the performance of a Contract, and
 - (b) a payment bond to guarantee the payment for labour and materials to be supplied in connection with a Contract.
 - (c) an irrevocable Letter of Credit from a financial Institution properly licensed to conduct business in Ontario
- (3)** The Department Head shall select the appropriate means to guarantee execution and performance of the Contract. Means may include one or more of, but are not limited to: certified cheque, bank draft, irrevocable letter of credit, money order and, where appropriate, a bid bond issued by an approved guarantee company properly licensed in the province of Ontario, on bond forms acceptable to the Township of Killaloe, Hagarty and Richards.
- (4)** Prior to the commencement of work, evidence of satisfactory insurance coverage must be obtained, ensuring indemnification of the Township of Killaloe, Hagarty and Richards 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 and/or the Department Head as requiring coverage.
- (5)** Prior to payment to a supplier, a Certificate of Clearance from the Workplace Safety and Insurance Board shall be obtained ensuring all premiums or levies have been paid to the Workplace Safety and Insurance Board to the date of payment.

CONTRACT WITHOUT BUDGETARY APPROPRIATION

20.

Where a requirement exists to initiate a project for which Goods, Services or Construction and funds are not contained within the Council Approved Budget to meet the proposed expenditure, the Department Head shall, prior to commencement of the purchasing process, submit a report to Council containing:

- (a) information surrounding the requirement to contract;
- (b) the terms of reference to be provided in the Contract;
- (c) information on the availability of the funds within existing estimates, which were originally approved by Council for other purposes, or on the requirement for additional funds.

BIDS IN EXCESS OF PROJECT ESTIMATES

21.

- (1) Where Bids are received in response to a Bid Solicitation but exceed project estimates, Council may enter negotiations with the Lowest Compliant Bidder to achieve an acceptable Bid within the project estimate.
- (2) Negotiations shall be conducted in accordance with the guidelines established by the Canadian Construction Documents Committee.

EMERGENCY PURCHASES

22.

- (1) Where an Emergency exists requiring the immediate procurement of Goods, Services or Construction, a Department Head or his/her Designate may purchase the required Goods, Services or Construction by the most expedient and economical means, notwithstanding any other provision of this By-Law. As soon as practicable thereafter, the Department Head or Designate shall comply with Schedule F of this By-law.
- (2) For all Emergency purchases made by a Department Head or his/her Designate, the Department Head or Designate shall as soon after the purchase as reasonably possible, notify Council with a written report detailing the circumstances of the Emergency. A report to Council shall be made by the Department Head/Designate in all circumstances where the Emergency purchase exceeds \$25,000.

COOPERATIVE PURCHASING

23.

- (1) The Township of Killaloe, Hagarty and Richards may participate with other government agencies or public authorities in cooperative purchasing where it is in the best interests of the Township of Killaloe, Hagarty and Richards to do so and where the purposes, goals and objectives of this by-law are complied with by such government agencies and public authorities.
- (2) The policies of the government agencies or public authorities calling the cooperative Bid Solicitation are to be the accepted policy for that particular purchase.

IDENTICAL TENDERS

24.

- (1) If the Lowest Compliant Bids from two or more bidders are identical in Total Acquisition Cost or unit price, Council may enter into negotiations with the bidders who have submitted the identical prices in an attempt to obtain a lesser price and shall maintain a record in respect of such negotiations.
- (2) Council shall not reveal information pertaining to such negotiations or the manner in which the final price was determined to any of the bidders concerned. Council shall include as part of the record, a report concerning the results of such negotiations.
- (3) When negotiations are not successful in breaking the identical tenders, Council shall conduct a review of past practices and performances of the tenderers.
- (4) If Council is unable to determine a successful tender using the methods outlined in 24 (1), (2) or (3), Council shall re-tender the project, soliciting tenders by the methods outlined in Table #1 of this By-Law.

BID IRREGULARITIES

25. The process for administering irregularities contained in Bids pertaining to all Contracts shall be as set out in Schedule "G" to this by-law.

CONTRACTUAL AGREEMENT

26.

- (1) Where the required product or service can be specified, (and such goods and services are not covered by a Blanket Purchase Order), it shall be acquired by a

Purchase Order, Direct Acquisition or Executed Contract as outlined in Schedule "F" to this by-law.

- (a) \$0 to \$5,000 and used equipment valued at less than \$10,000
Direct acquisition is acceptable.
Purchase Order and report to Council is required.
- (b) \$5,000 to \$10,000
The user department shall obtain three written quotations, where possible and practicable.
Purchase Order and Report to Council required.
- (c) \$10,000 to \$50,000
The user department shall obtain three written quotations, where possible (using a Request for Quotation, invitational Request for Quotation, or other method).
Purchase Order and Report to Council required.
- (d) Over \$50,000
Written quotation acquired by Request for Tender or Request for Proposal.
Purchase Order or Executed Contract, and Report to Council required.
- (e) Used Equipment Over \$10,000 (all departments)
3 written quotes required where possible and practicable. Purchase order and report to council required.

SURPLUS AND OBSOLETE GOODS

27.

- (1) Council may dispose of all Goods for which a Department no longer has use and Council may use any method for disposal in the Township of Killaloe, Hagarty and Richards best interests, including without limitation, public auction, public tender, trade, negotiated sale, donation, or transfer to another department.
- (2) No Council Member or employee shall be permitted to receive surplus or Obsolete Goods except by purchase at public auction, public tender, trade or negotiated sale.
- (3) Prior to the disposal of surplus or obsolete goods, the Department Head shall ensure that the municipality's name and other identifying logos are removed.

PART VI – OTHER**ACCESS TO INFORMATION**

- 28.** The disclosure of information received relevant to the issue of Bid Solicitations or the Award of Contracts emanating from Bid Solicitations shall be in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, as amended.

BY-LAW REVIEW**29.**

- (1)** This By-law shall be reviewed during the term of each Council.
- (2)** The review shall determine how effective this By-law has been in achieving the objectives set out in Part II of the By-law as well as the requirements of the *Municipal Act, 2001*, as amended.
- (3)** The review may be undertaken by a committee of Council.

EFFECTIVE DATE

- 30.** This By-law shall come into force and take effect upon final reading thereof.

REPEAL

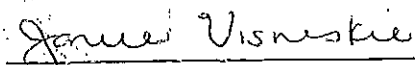
- 31.** This By-law replaces 18-2008 of the Township of Killaloe, Hagarty and Richards and all amendments thereto.

PART VII – SCHEDULES

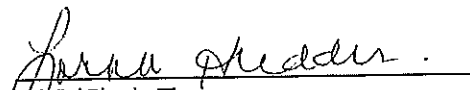
Schedules A, B, C, D, E, F, G, H are hereto attached and form part of this by-law.

Read a first and second time this 5th day of February, 2013

Read a third time and finally passed this 5th day of February, 2013.



 Mayor



 CAO/Clerk-Treasurer

SECTION 32 – Schedule "A" to By-Law # 19-2012**PURCHASES EXEMPT FROM BY-LAW:**

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

1. Training and Education
 - (1) Registration and Tuition fees for conferences, conventions, courses and seminars
 - (2) Magazines, books and periodicals unless the purchase of such magazines books and periodicals are subject to value-added services
 - (3) Memberships
2. Refundable Employee/Councillor Expenses
 - (1) Advances
 - (2) Meal Allowances
 - (3) Travel and Entertainment
 - (4) Miscellaneous - Non-Travel
3. Employer's General Expenses
 - (1) Payroll Deductions Remittances
 - (2) Medical
 - (3) Licenses (Vehicle, Firearms, etc.)
 - (4) Debenture Payments
 - (5) Grants to Agencies
 - (6) Damage Claims
 - (7) Petty Cash Replenishment
 - (8) Tax Remittances
4. Professional and Special Services
 - (1) Committee Fees
 - (2) Legal fees and other Professional Services related to litigation or legal matters
 - (3) Funeral and Burial expenses
 - (4) Witness fees
 - (5) Contracts related to the provision of "controlled acts" by persons "governed by a health profession Act", as those expressions are used in the Regulated Health *Professions Act*, S.O. 1991, c.18, as amended
 - (6) Veterinary Expenses
5. Utilities and Miscellaneous
6. Advertising services required by the Township on or in but not limited to radio, television, newspaper and magazines.
7. Bailiff or collection agencies.
8. Postage.

SECTION 33 – Schedule "B" to By-Law #19-2012

EXCEPTIONS TO METHODS OF ACQUISITION:

A. VOLATILE MARKET CONDITIONS

Notwithstanding the provisions of this policy, where market conditions are such that long term price protection cannot be obtained for goods and services, the Department Head will obtain competitive prices for short term commitments until such time as reasonable price protection and firm market pricing is restored.

B. SOLE SOURCE PROCUREMENT

Purchase by negotiation may be adopted, if in the judgment of the Department Head and in consultation with Council, any of the following conditions apply:

- (i) goods and services are in short supply due to market conditions
- (ii) the sources of supply are restricted to the extent that there is not effective price competition, or consideration of substitutes is precluded due to any of the following conditions:
 - a. components or replacement parts for which there is no substitute
 - b. compatibility with an existing product, facility or service is required
 - c. specific standards are adopted by Council
- (iii) there is documented evidence that the extension or reinstatement of an existing contract would prove cost effective or beneficial (to a maximum of 10% of the original contract)
- (iv) work is required at a location where a contractor has already been secured through a tender process, with established unit prices by another party and it is considered to be beneficial and cost effective to extend the unit prices for the work to be completed for the Township.
- (v) after the RFP has closed, it may be necessary for discussion to clarify and/or make significant revision(s) to the initially defined requirements of the call for quotations/proposals
- (vi) when only one bid/proposal is received through the procurement process and it is impractical to recall the requirements of the call for quotations/proposals

Notwithstanding the provisions of this policy, the following shall apply only in case of an emergency, when an event occurs that is determined by a Department Head or the Chief Administrative Officer/Clerk-Treasurer to be a threat to:

- public health or safety

- the maintenance of essential Township services
- the welfare of persons or of public property, or
- the security of the Township's interests and the occurrence requires the immediate delivery of goods or services and time does not permit for competitive bids.

The above criteria are to be applied on the basis of:

(i) **Procurement under \$25,000:**

Wherever feasible, the Department Head shall secure by the most open market procedure at the lowest obtainable price, any goods and services required. A Purchase Order shall be issued as soon as possible after the emergency.

(ii) **Procurement over \$25,000:**

The Department Head shall obtain the prior approval of Council. An information report shall be submitted to Council explaining the actions taken and the reason(s) therefore. A Purchase Order shall be issued as soon as possible after the emergency. A report to Council is required as soon as possible after the emergency.

C CO-OPERATIVE OR JOINT VENTURES

The Township of Killaloe, Hagarty and Richards may participate with other Government agencies or public authorities in co-operative procurement/acquisition ventures or utilize a "piggy back clause" within public sector contracts, whenever it is determined to be in the best interest of the Township of Killaloe, Hagarty and Richards to do so.

SECTION 34 -- Schedule "C" to By-Law #19-2012

TENDER PROCESS

Tenders will be called for all work, new equipment, and new materials with a value exceeding \$50,000 by way of public advertising and/or invitational bid.

The Department Head will prepare a draft advertisement and tender documents providing the following information:

- ✓ dollar value
- ✓ description of work
- ✓ date and time of site visit (if applicable)
- ✓ closing date

The Chief Administrative Officer/Clerk-Treasurer or Department Head will advertise and distribute tenders and book a suitable time for the tender opening:

- ✓ all public tenders are advertised on the Township of Killaloe, Hagarty and Richards website. Additionally, at the discretion of the Department Head, tenders may be advertised in a local, regional, and/or construction newspaper (2 days lead time required if possible)
- ✓ In some instances the contract may be advertised to pre-qualify potential bidders. Pre-qualification of bidders includes the screening of potential vendors in which such factors as financial capability, reputation, qualified staff and equipment management and product quality are considered. After evaluation of responses, only those contractors who are "pre-qualified" are allowed to submit tenders.

Advertisements must include the following information (if applicable): site meeting time/date/location, contacts names for technical and purchasing inquiries, document fee (if applicable), and location for pick up and drop off of bid documents.

The closing date is usually 15 calendar days after the date of issue, however, a tender may be closed in a shorter or longer period of time depending on the urgency or complexity of the item(s) being tendered.

Advertised tender packages are available from the Municipal Office. The tender fee (if applicable) is paid to the municipality and information is recorded from bidders as documents are picked up.

All tender submissions must be addressed to the Chief Administrative Officer/Clerk-Treasurer.

The municipality will refuse to accept any tender submission that is:

- ✓ Not sealed
- ✓ Received after the closing deadline

- ✓ Submitted after a tender has been cancelled

Requests for withdrawal of a tender shall be allowed if the request is made before the tender closing time for the contract to which it applies. Requests must be directed to the Chief Administrative Officer/Clerk-Treasurer by letter or in person, by a Senior Official of the company, with a signed withdrawal confirming the details. Telephone requests will not be considered. The withdrawal of a tender does not disqualify a bidder from submitting another tender on the same contract.

Tenders normally close at 4:00 P.M. on the appointed day and are opened publicly at a time specified by council.

Each tender is reviewed to determine whether a bid irregularity exists, and action is taken according to the nature of the irregularity (see Schedule G).

Tenders are tabulated and evaluated by council.

Following council's approval the Department Head shall either issue a Purchase Order or ensure that a contract, which legally binds the corporation, is executed by the appropriate signing authority.

Tender results, the sections of which are not protected under the Municipal Freedom of Information and Protection to Privacy Act shall be made public upon request, by the Chief Administrative/Clerk Treasurer or his/her designate.

SECTION 35 – Schedule "D" to By-Law #19-2012

REQUEST FOR PROPOSAL PROCESS

REQUESTS FOR PROPOSALS (RFP'S) may be called instead of tenders, by way of public advertising or invitational bid, when:

- ✓ requirements or services cannot be definitely specified, or
- ✓ the requirements or services are non-standard or specialized in nature, or
- ✓ the cost is not the major component making up the award.

The User Department will initiate the RFP process by preparing documents, with input and assistance from Council. The Chief Administrative Officer/Clerk-Treasurer or his/her designate will advertise and distribute RFP packages.

All public RFP's will be advertised on the Township of Killaloe, Hagarty and Richards website. Additionally, at the discretion of the Department Head, RFP's may be advertised in a local, regional and/or construction newspaper (2 days lead time required if possible). Advertisements must include the following information (if applicable): site meeting time/date/location, contacts names for technical and purchasing inquiries, document fee (if applicable), and location for pick up and drop off of bid documents.

The closing date is usually 15 calendar days after date of issue, however, an RFP may be closed in a shorter or longer period of time depending on the urgency or complexity of the item(s).

Public Request for Proposal documents packages are available from the Municipal Office and/or from an agency acting on behalf of the township, e.g. consultant.

RFP's must be addressed to the Chief Administrative Officer/Clerk-Treasurer. The Chief Administrative Officer/Clerk-Treasurer or his/her designate will receive all submissions and issue a date and time-stamped receipt, if requested.

The Township of Killaloe, Hagarty and Richards will refuse to accept any submission that is:

- ✓ not sealed
- ✓ received after the closing deadline
- ✓ submitted after an RFP has been cancelled.

Requests for withdrawal of an RFP shall be allowed if the request is made before the RFP closing time for the contract for which it applies. Requests must be directed to the Chief Administrative Officer/Clerk-Treasurer by letter or in person by a Senior Official of the company, with a signed withdrawal confirming the details. Telephone requests will not be considered. The withdrawal of an RFP does not disqualify a bidder from submitting another RFP on the same contract.

Proposals shall be opened at such time as set out in the RFP. Names of bidders will be made public.

Proposals received shall be evaluated on the basis of quantitative and qualitative criteria by Council.

SECTION 36 - Schedule "E" to By-Law #19-2012

BID ANALYSIS and REPORTING

Analyzing of bid responses shall be as follows:

1. Tenders, proposals, quotations shall be tabulated and analyzed by Council or a person/company representative whom they have designated to act on their behalf in regard to this task, and this person/firm shall make a report and recommendation to Council based on an evaluation conducted with regard to the criteria as set out in the tender, proposal, quotation request.
2. Bid responses dealing with the lease, rental or purchase of physical assets shall be tabulated and analyzed by Council or a person/company representative whom they have designated to act on their behalf in regard to this task and this person/firm shall make a report and recommendation to Council based on an evaluation conducted with regard to the criteria as set out in the request.

REPORTING

GOODS AND SERVICES AND PROFESSIONAL AND CONSULTING SERVICES

1. Where the:
 - a) value of the goods and services is less than \$5,000 and
 - b) procedures defined by this policy have been followed, and
 - c) acquisition is within the approved departmental net budget amount, and
 - d) purchase has been made from the competitive marketplace where possible and practicable;

A report to council is required and the Department Head/Designate shall execute a Direct Acquisition.

2. Council approval is required where the:
 - a) value of the goods and services is over \$10,000, or
 - b) purchase is for vehicles or heavy equipment, or
 - c) purchasing policy is being waived, or
 - d) acquisition exceeds the approved capital budget amount by more than 10%, or
 - e) lowest responsive vendor submission is not being recommended, or

- f) there was no provision in the budget for the item, or
- g) Chief Administrative Officer/Clerk-Treasurer requests that a report be presented for Council consideration and approval.

Based on the above criteria, a Purchase Order shall be issued and/or contract executed by the Head of Council and the Chief Administrative Officer/Clerk-Treasurer in accordance with the reporting guidelines in this policy.

3. All contracts will be held by the Chief Administrative Officer/Clerk-Treasurer with copies being sent to the issuing department.

SECTION 37 - Schedule "F" to By-Law #-19-2012

METHODS OF PROCUREMENT – SUMMARY TEMPLATE

The following are authorized procedures for the procurement of goods, services and construction, not available from pre-existing agreements.

DOLLAR VALUE	TYPE OF QUOTATION	SOURCE OF BIDS	TYPE OF CONTRACT	REPORTING STATUS
1. GOODS AND SERVICES 2. REQUESTS FOR PROPOSALS/TENDERS/QUOTATIONS (INCLUDING THE ENGAGEMENT OF PROFESSIONAL AND CONSULTING SERVICES) 3. EXPRESSION OF INTEREST and/or REQUEST FOR PRE-QUALIFICATION				
a. \$00 to \$5,000 and Used Equipment Under \$10,000 (All Departments)		Purchases made from the competitive marketplace where possible and practicable	Purchase Requisition, Direct Acquisition, No Purchase Order Necessary	Report to Council Required
b. \$5,000 to \$10,000	Written quotation required where possible and practicable	3 written quotes to be obtained where possible	Purchase Order	Report to Council Required
c. \$10,000 to \$50,000	Written quotation acquired by Request for Quotation (RFQ) or Request for Proposal (RFP)	May be advertised on website, local and/or trade paper.	Purchase Order	Report to Council Required
d. Over \$50,000	Written quotation acquired by Request for Tender or Request for Proposal	May be advertised on website, local and/or trade paper.	Purchase Order or Executed Contract	Report to Council Required
e. Used Equipment Over \$10,000 (All Departments)	3 written quotes required where possible and Practicable		Purchase Order	Report to Council Required

SECTION 38 - Schedule "G" to By-Law #19-2012

BID IRREGULARITIES

BID IRREGULARITY:

A bid irregularity is a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in the bid response.

For the purposes of this policy, bid irregularities are further classified as "major irregularities" or "minor irregularities".

A "**major irregularity**" is a deviation from the bid request that affects the price, quality, quantity or delivery, and is material to the award. If the deviation is permitted, the bidder could gain an unfair advantage over competitors. The Council must reject any bid which contains a major irregularity.

A "**minor irregularity**" is a deviation from the bid request which affects form rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. If the deviation is permitted or corrected, the bidder would not gain an unfair advantage over competitors. The Council may permit the bidder to correct a minor irregularity.

MATHEMATICAL ERRORS – RECTIFIED BY STAFF

The Chief Administrative Officer/Clerk-Treasurer will correct errors in mathematical extensions and/or taxes, and the unit prices will govern.

ACTION TAKEN:

Council shall be responsible for all action taken in dealing with bid irregularities, and acts in accordance with the nature of the irregularity:

- ✓ major irregularity (automatic rejection)
- ✓ minor irregularity (bidder may rectify)
- ✓ mathematical error (additions or extensions) as above

In the event that the vendor withdraws his/her bid due to the identification of a major irregularity, the Township of Killaloe, Hagarty and Richards may disqualify such vendor from participating in Township quotations/tenders/requests for proposals for a period of **one year**.

BID IRREGULARITIES – SUMMARY

ITEM	DESCRIPTION	MAJOR	MINOR	ACTION
1.	Late Bids (by any amount of time)	X		Automatic Rejection
2.	Bids completed in pencil	X		Automatic Rejection
3.	Bid surety not submitted with bid when the bid request (or any addenda) indicated that such surety is required	X		Automatic Rejection
4.	EXECUTION OF AGREEMENT TO BOND: a) Bond company corporate seal or equivalent proof of authority to bind company or signature missing. b) Surety company not licensed to do business in Ontario	X		Automatic Rejection
5.	EXECUTION OF BID BONDS: a) Corporate seal or equivalent proof of authority to bind company or signature of the BIDDER or both missing b) Corporate seal or equivalent proof of authority to bind company or signature of BOND COMPANY missing	X		Automatic Rejection
6.	OTHER BID SECURITY: Cheque which has not been certified	X		Automatic Rejection
7.	Bidders not attending mandatory site meeting	X		Automatic Rejection
8.	Unsealed tender envelopes	X		Automatic Rejection
9.	Proper response envelope or label not used		X	Acceptable if officially received on time
10.	Pricing or signature pages missing	X		Automatic Rejection
11.	Insufficient financial security (i.e: no deposit or bid bond or insufficient deposit)	X or	X	Where security is required & amount is not specified in request, automatic rejection unless insufficiency is <u>deminimus</u> (trivial or insignificant). Where security is required and amount of security is specified in request, automatic rejection.
12.	Bid received on documents other than those provided in request	X		Not acceptable unless specified otherwise in the request
13.	EXECUTION OF BID DOCUMENT: Proof of authority to bind is missing	X		Automatic Rejection

14.	Part bids (All items not bid)	X or	X	Acceptable unless complete bid has been specified in the request
15.	Bids containing minor clerical errors		X	2 working days to correct initial errors. Township reserves the right to waive initialling and accept bid
16.	Uninitialled changes to the request documents which are minor (ie: the bidder's address is amended by overwriting but not initialling)		X	2 working days to correct initial errors. Township reserves the right to waive initialling and accept bid
17.	Alternate items bid in whole or in part		X	Available for further consideration unless specified otherwise in request
18.	Unit prices in the schedule of prices have been changed but not initialed		X	2 working days to correct initial errors. Township reserves the right to waive initialling and accept bid
19.	Other mathematical errors which are not consistent with unit prices		X	2 working days to initial corrections. Unit prices will govern.
20.	Pages requiring completion of information by vendor are missing	X		Automatic Rejection
21.	Bid documents which suggest that the bidder has made a major mistake in calculations in bid			Consultation with a Solicitor on a case-by-case basis and referenced within the staff report if applicable
22.	Failure to comply with #4,#5,#6 or #7 as outlined in this schedule	X		Automatic Rejection

NOTE: The above list of irregularities should not be considered all-inclusive. Council will review minor irregularities not listed. Council may then accept the bid, or request that the bidder rectify the deviation.

SECTION 39 – Schedule 'H'**KILLALOE AND DISTRICT PUBLIC LIBRARY****Procurement Policies and Procedures****PROCUREMENT PRINCIPLES and GOALS**

The purchasing principles of the Killaloe and District Public Library are as follows:

1. to procure by purchase, rental or lease the required quality and quantity of goods and/or services, including professional and consulting services in an efficient, timely and cost effective manner.
2. to encourage open competitive bidding for the acquisition and disposal of goods and services where practicable;
3. to consider all costs, including, but not limited to, acquisition, operating, training, maintenance, quality, warranty, payment terms, disposal value and disposal costs, in evaluating bid submissions from qualified, responsive and responsible vendors,
4. to encourage the procurement of goods and services with due regard to the preservation of the natural environment, vendors may be selected to supply goods made by methods resulting in the least damage to the environment and supply goods incorporating recycled materials where practicable
5. this policy will be reviewed every 3 years or earlier to evaluate its effectiveness.

GENERAL CONDITIONS

1. Any commitments being made where it is recommended that a contract be executed by CEO must first be approved by the Library Board.
2. Where it is recommended that a contract other than a purchase order be executed, it will be authorized:
 - i. For contracts over \$250
by the CEO after being approved by the Board
 - ii. For contracts under \$250
by the CEO at her/his discretion.
4. No expenditure or commitment shall be incurred or made and no account shall be paid by the Library for goods and services, except as approved by the Library Board or as otherwise authorized in accordance with this policy.

5. Material Safety Data Sheets must be maintained on file by the Library for all relevant products whether acquired through tendering, quoting or the proposal process.

BUDGET

Before the budget is approved in any year, purchase orders for ongoing supplies will be limited to 10% per month of the previous year's approved budget for such supplies except:

- a. where items costing in excess of the limitation are required at a specific point in time in order to maintain an existing program; or
- b. where items are required to be purchased under any existing contract or collective agreement.

Before the budget is approved in any year, no orders will be placed for capital items except as approved by the Board.

PURCHASING PROCEDURES

Direct Purchase Process:

1. Goods and Services under \$250. No formal quotes are required. Purchasing is at the discretion of the CEO.
2. Contracts over \$250 may be authorized by the CEO after being approved by the Board.

Tendering Procedure:

- a) all requirements of the library estimated to be in excess of \$1000 in value shall not be authorized until such time as two or more written quotations are received. All purchases between \$250 and \$2500 in value shall be approved by the Board;
- b) All requirements of the Library estimated to exceed \$2500 in value shall be obtained by calling for sealed tenders by advertising in the local newspapers or inviting tenders from potential suppliers. All tenders shall be opened publicly. A member of the Board shall be present for such openings. All tenders exceeding \$2500 in value shall be approved by the Board. The lowest or any tender will not necessarily be approved;
- c) requests for proposals may be called when the requirements or services cannot be definitely specified and where such proposals should likely result in specific offers by the bidders to fulfill the requirements, services or functions at a particular price;
- d) late tenders or proposals will not be accepted; and,
- e) no purchases shall be divided in such a manner as to reduce their costs to circumvent the tendering process or allowable purchase limit.

Emergency:

- a) notwithstanding any of the provisions of these procedures, should any emergency occur which, in the opinion of the CEO constitutes imminent dangers to life, limb, property or the interruption of an essential service, material and/or service as may be required to remedy this emergency may be procured immediately and reported to the Board in writing as soon as practical; and
- b) where the cost of material to be purchased under the circumstances prescribed by this section, exceeds authorized limits, the proposed purchase shall be authorized by the CEO and reported on at the next meeting of the Board.

Co-operative Purchasing:

The Killaloe and District Public Library shall use co-operative purchasing when possible to gain cost reductions for volume purchases.

Suspension:

Any provision of this purchasing policy may be suspended by resolution of the Board.

Single Sourcing:

An expenditure can be made from a single source without quotation or tenders where there is only one source or the compatibility of a purchase must be made from a single source. Such sourcing may also be initiated where a situation arises that creates an immediate and serious need, which may not be reasonably met by any other means (refer to Emergency).

CEO POLICY

Purchases:

The librarian is responsible for developing and maintaining the library collection under the direction of the Board.

It is not normally the policy of the Library to purchase second hand books from individuals. The Librarian has the authority to sell duplicate copies of books or to dispose of them through other libraries.

Non-routine purchases such as those for furniture and equipment shall be referred to the Board for approval. The disposal of capital equipment no longer required shall also be referred to the Board.

To avoid the unacceptable delays caused by the requirement for the Librarian to seek Board approval for even minor expenditures such as the acquiring of materials required for special programs, the CEO/Librarian may authorize purchases under \$1000.00.

Purchases

Controversial Material:

In a book selection policy, which aims to be liberal, there is an inherent risk that a book or books may give offense to some patrons. The Library does not advocate all or any of the ideas and opinions found in its collection. The presence of material in the library does not indicate an endorsement of its contents by the library.

Anyone objecting to material in this library may do so in writing and should send a copy of the letter to the Library Board.

The library does not cater to, nor discriminate against any religious, political or racial group.

Responsibility for Children's Reading:

The subject matter of children's reading ultimately rests with the parents or legal guardians. Selection for the adult and children's collections is not restricted by the possibility that children may use material considered inappropriate by their parents. The library believes in the freedom of the individual and the right and obligation of the parents to develop, interpret and enforce their own code of ethics.

Gifts and Donations:

Books, pamphlets, periodicals, etc. are accepted by the library with the understanding that such acceptance implies unconditional ownership and that the library may dispose of them at any time and in any way it sees fit. The library is not responsible for informing the donor of such disposition.