

- 2.2 To maintain an open and honest process that is fair and impartial, any purchase of goods, services or equipment shall be made on a competitive basis, in keeping with accepted public procurement practices and in accordance with applicable federal, provincial and municipal laws.
- 2.3 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.
- 2.4 The procurement policy will promote and maintain the integrity of the procurement process and protect Council, vendors and staff involved in the process by providing clear direction and accountabilities.
- 2.5 This policy will delegate the appropriate level of authority to enable Town departments to meet service requirements and to ensure that employees who are responsible for requisitioning and procurement goods and services are accountable for their actions and decisions.

3. DEFINITIONS

- 3.1 For the purposes of this Policy,

“Bid” means a submission from a prospective vendor in response to a request for the purchase of goods or services issued by the Town.

“Bid Deposit” means a financial guarantee to ensure the successful bidder will enter into an agreement.

“Bidders List” means a listing of vendors who apply to the Town to do a specific type of future business with the Town.

“Chief Administrative Officer” means the chief appointed official for the Town of Pelham responsible to council and is the senior management officer of the Corporation.

“Contract” means any written formal legal agreement for supplies, goods, services, equipment or construction.

“Council” means the elected Council of the Corporation of The Town of Pelham.

“Department Director” means a head of a department operating within The Town of Pelham being the Chief Administrative Officer, Director of Financial Services, Clerk, Director of Operations, Director of Fire Services, Director of Building and Enforcement Services, and the Director of Planning.

“Director of Financial Services” means the Treasurer of the Town of Pelham.

“Emergency Purchase” means a purchase made in a crisis situation where immediate action is required to prevent the possible loss of life or property.

“Formal Quotation” means a document that sets out particular requirements for goods and/or services.

“Goods and Services” - Goods includes all supplies, material or equipment and Services means those services supplied to the Town that include a labour component.

“Informal Quotation” means a competitive bid process for goods or services that is conveyed and received from bidders in a written format by e-mail, mail or fax.

“Invoice Approval Stamp” means a stamp prescribed by Treasury and Financial Services Division to ensure required approvals are applied to an invoice.

“Proposal” means an offer to perform or provide a function, service or product that cannot be fully defined or specified. (RFP)

“Procurement Designate” means an employee designated by a Department Director to exercise any or all responsibilities of the Department Director with respect to this policy.

“Procurement Process” means the process by which goods and/or services are obtained.

“Quotation” means a written offer to sell or a “bid” obtained from selected sources of supply, to supply stipulated goods or services at a particular price which is received by the Town on a formal Request for Quotation form or on a vendor’s quotation form. (RFQ)

“Tender” means a written formal offer submitted on a form selected by the Town by any company or member of the public in response to an invitation to supply stipulated goods or services at a particular price.

“Town” means The Corporation of the Town of Pelham.

Vendor” means any person or enterprise supplying goods or services to the Corporation of The Town of Pelham.

4. GENERAL CONDITIONS

- 4.1 Department Directors are authorized to act as agents of the Town in all matters pertaining to the procurement process as set out in this policy. Department directors are authorized to issue requests for tenders, requests for proposals and

quotation documents, requests for information, expressions of interest and sign purchase orders, contracts and agreements as necessary in order to acquire goods and services in accordance with this by-law.

- 4.2 Subject to the approval of the any Department Director and the CAO or Town Council, where the best interests of the Town will be served, the Town may participate with other governments or their agencies or public authorities in co-operative procurement ventures or joint contracts.
- 4.3 Department Directors shall prepare, sign and issue purchase orders for the acquisition of all goods and/or services except as outlined in schedule "A" or as otherwise exempted in this policy.
- 4.4 Lists of all responses to bid solicitations received shall be retained in accordance with the Town's records retention by-law.
- 4.5 No expenditures or commitment shall be incurred or made and no account shall be paid except as approved by Council or as otherwise authorized in accordance with this policy, or any other policy of the Town.
- 4.6 No employee or elected official shall purchase or offer to purchase on behalf of the Town any goods or services except in accordance with this policy.
- 4.7 Elected Officials will not sign off on purchases or acquire any goods and/or services.
- 4.8 Any employee who intentionally or knowingly acquires or disposes of any goods and or services for the Town in contravention of any section of this policy as amended from time to time, shall be subject to disciplinary action in accordance with Town policy in effect at the time.
- 4.9 No requirements for goods and/or services may be divided into two or more parts to avoid any provisions of this policy.
- 4.10 Purchase of any goods or services for personal use by or on behalf of any member of Council, appointed officers or employees of the Town or their immediate families is prohibited.
- 4.11 The acceptance of gifts, benefits, money, discounts, favours or other assistance by elected officials, appointed officers, employees and their families is prohibited except as provided for in Town policy PERS/01, Section 2.
- 4.12 The Town does not allow staff to compete with external entities for procurement opportunities. (In house bids).

- 4.13 Where an employee involved in the Award of any Contract either on his or her own behalf or while acting for, by, 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 the CAO 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.
- 4.14 An employee has an indirect pecuniary interest in any Contract in which the Town of Pelham is concerned, if,
- a) the employee or any one of their spouse, siblings, parents or children
 - (i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public that has a pecuniary interest in the Contract;
 - (ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public that has a pecuniary interest in the Contract; or
 - (iii) is a member of an incorporated association or partnership, that has a pecuniary interest in the matter; or
 - b) the employee or any one of their spouse, siblings, parents or children is in the employment of a person, unincorporated association or partnership that has a pecuniary interest in the Contract.
- 4.15 Where the performance of a supplier has been unsatisfactory in terms of failure to meet contract specifications, terms and conditions or for Health and Safety violations, the appropriate Director shall document evidence in writing to the CAO.
- 4.16 The Town CAO may, in consultation with the Town Solicitor, prohibit an unsatisfactory supplier from bidding on future contract for a period of up to three years.
- 4.17 Vendors or potential vendors shall not be requested to expend time, money or effort on design or in developing specifications or otherwise help define a requirement beyond the normal level of service expected from vendors. Where such services are required;

- a) The contracted vendor will be considered a consultant and will not be allowed to make an offer for the supply of the goods or services;
 - b) A fee shall be paid, the amount of which shall be determined and agreed upon by the vendor and the Town before the service commences; and
 - c) The detailed specifications shall become the property of the Town and can be used in obtaining competitive bids.
- 4.18 Where goods and services of a similar type are to be supplied on a repetitive basis from one or more suppliers either over a period of time in a calendar year or over the course of a season, those goods and services shall be purchased in accordance with the provisions of this policy applicable to goods and services having a price or value equal to the total estimated cost of all such similar goods and services to be supplied in the whole calendar year or during the course of the entire season as the case may be. A blanket purchase order shall be issued in place of the regular Purchase Order.
- 4.19 This policy shall be reviewed by the Director of Financial Services at least once every three years. However, staff may make recommendations to Council for modifications to the policy, and/or Council may request staff to review and recommend modifications to the policy at any time.
- 4.20 The Director of Financial Services shall be responsible to inform the CAO, and in the case of the CAO, Council that non compliance with this policy has occurred.
- 4.21 Upon being informed by the Director of Financial Services and upon investigation, the CAO may if non compliance with this policy has occurred, suspend or restrict any authorities conferred on a Department Director under this policy. Continued non compliance with this policy may result in disciplinary action against the offending Director.

5. PROCUREMENT RESPONSIBILITIES

5.1 Expenditure Authorization

- 5.1.1 Pelham Council has ultimate authority for all expenditures. Council delegates this authority by the approval of all budgets or by specific resolution. The Finance Department cannot pay for any item that has not been authorized by Council through budget appropriation or specific resolution. This procurement policy provides guidelines outlining how spending authority as delegated by Council is to be used.
- 5.1.2 Department Directors shall be responsible for the procurement of all supplies of goods and or services for their respective departments within the limits set out in this policy with the following exceptions which shall be approved by Council:

- a) Major construction contracts.
- b) Property acquisition and disposal.
- c) Consulting services including; legal, auditing, financial, engineering, planning, medical services and insurance carriers including employee benefit plans.
- d) Corporate computer software and equipment i.e. financial software programs.

5.2 Department Director Authorization and Responsibilities

- 5.2.1 Department Directors shall be responsible for approval of accounts within the approved budget for their division or any amendment to same as approved by Council.
- 5.2.2 Resolutions of Council approving budget amendments, capital expenditures or special appropriations shall contain purpose of expenditure, cost estimates or expenditure limitation, and the fund in which an appropriation has been provided.
- 5.2.3 A Department Director may appoint a designate in writing to exercise any or all responsibilities assigned to that Director by this policy. Such designation shall be filed with the Director of Financial Services of the Town.
- 5.2.4 Prior to Council approval of the operating and capital budgets in any year, department directors are authorized to spend as follows:

Operating budget excluding salaries and benefits: up to 40% of the previous years approved budget, provided that the previous year's budget contained a line item amount for the expenditure to be made. If the Director requires funds for a new program or type of expenditure not contained in the previous year's estimates, a resolution of Council will be necessary.

Capital budget: New projects need approval of Council to spend any money.
- 5.2.5 The exercise of authority to award a contract or purchase any goods and/or services is subject to identification and availability of sufficient funds in appropriate accounts within the Council approved Budgets.
- 5.2.6 Department directors are not authorized to overrun approved departmental budgets except in accordance with this policy or any other policy of the Town.

6. Approval Levels

Unless otherwise approved by Council, all purchases of goods and services must be approved in all annual budgets. Formal approval of the budget constitutes financial approval to proceed with the procurement process. The exercise of authority to incur expenses is subject to the identification and availability of sufficient funds in appropriate accounts as approved by Council. On this basis, the ability to incur the actual expenditures is delegated to Town staff in accordance with the following approval levels:

Up to \$10,000	Department Head and/or designate as determined by the individual department head.
\$10,001 - \$25,000	Chief Administrative Officer (or Department Heads at the discretion of the Chief Administrative Officer).
Over \$25,001	Town Council

The dollar limits above refer to invoice costs inclusive of taxes, delivery charges, set up costs etc. As noted previously, no requisition, purchase, or contract shall be divided in order to avoid the requirements of the spending limits of this section.

7. GENERAL PROCUREMENT PROCEDURES

The following are the authorized procedures for the procurement of goods and services:

Procedure	Cost
Direct Purchases See Schedule "B" for Process	Up to \$1,500
Informal Quotation Process See Schedule "C" for Process	Greater than \$1,501, but less than \$10,000
Formal Quotation Process See Schedule "C" for Process	Greater than \$10,001
Request for Tender See Schedule "D" for Process	Greater than \$25,001
Request for Proposal See Schedule "E" for Process	Any dollar amount
Exceptions to Methods of Procurement See Schedule "F" for Process	

Dollar limits above refer to invoice cost inclusive of taxes, delivery charges, set up costs etc.

Notwithstanding any other provisions of this policy, the acquisition of items listed in appendix "A" to this by-law do not fall under the guidelines of this policy and shall be subject to applicable policies and procedures established from time to time.

Regardless of the procurement method used, Directors are required to acquire goods and services using fair, and ethical procurement practices as established by the Town.

8.0 DISPOSAL OF SURPLUS GOODS

- 8.1 The Department Director shall notify the Chief Administrative Officer of any items that are deemed to be surplus to the departments needs and are to be sold or disposed of. The Chief Administrative Officer shall approve of the sale or disposition.
- 8.2 Prior to the sale or disposal of surplus assets, the Department Director shall circulate a list of surplus assets and make such assets available free of charge to any other department.
- 8.3 Surplus assets not required by any other department shall be sold or disposed of by the Director via formal auction, tender, quotation or trade in. The disposition shall be documented by a sales order. Revenue generated from the sale of surplus assets shall be credited to the appropriate equipment replacement reserve.
- 8.4 No surplus assets shall be sold directly to a Town employee a member of an employee's family or a member of council. This does not prohibit these individuals from procurement of surplus assets being sold through public auction.
- 8.5 Assets remaining may be donated to a recognized not- for- profit organization or other community agency preferably operating within the Town as determined by the CAO.
- 8.6 If it is determined that any remaining assets have no residual value, the CAO may dispose of them in an environmentally sensitive manner.
- 8.7 Where scrap material is available for disposal, the appropriate Department Director may dispose of the material by direct contact with appropriate dealers to view the scrap and submit offer to purchase. A copy of the dealers weigh bill along with the proceeds of disposition shall be turned into the finance department as soon as these items are received.

SCHEDULE "A"

Purchasing processes do not apply to following items unless specifically requested by the treasurer.

1. Petty Cash Items

2. Training and Education

- a) Conferences and conventions (Council approved)
- b) Courses, workshops and seminars
- c) Memberships and subscriptions
- d) Staff training and development
- e) Books, magazines and periodicals

3. Refundable Employee Expenses

- a) Cash advances
- b) Meal allowances
- c) Travel and accommodation
- d) Employee mileage

4. Employer's General Expenses

- a) Employee and Council remuneration including sick leave, severance and retiring allowances paid in accordance with Town policies as amended from time to time
- b) Payroll deduction remittances (CPP, EI, Income Tax, Omers etc.)
- c) Employee benefit remittances (Sun Life etc.)
- d) Licenses (vehicles, elevators, radios, etc.), permits and other required approvals.
- e) Debenture payments
- f) Council approved grants to agencies
- g) Payment of damages
- h) Tax remittances (PST, GST)
- i) Charges to/from other Governments or government agencies
- j) Payments to local boards
- k) Investments
- l) Bank charges
- m) Property rentals
- n) Refunds
- o) Freight charges
- p) Advertising costs
- q) Medicals
- r) Insurance premiums
- s) Property tax refunds or building permit refunds
- t) Claims for livestock killed by dogs
- u) Water/sewer flow treatment costs paid to Niagara Region
- v) Legal Counsel

5. Special Services

- a) Committee fees
- b) Legal settlements
- c) Honoraria
- d) Professional and special services
- e) Land transfer taxes
- f) Real estate fees
- g) Registry office fees
- h) Insurance claims

6. Utilities

- a) Postage
- b) Internet
- c) Gas
- d) Hydro
- e) Water and sewer charges
- f) Cable T.V.

SCHEDULE "B"

DIRECT PURCHASES

This method of purchasing refers to direct ordering of goods and/or services from a supplier with or without negotiation. This method will be used primarily to purchase low dollar value goods and/or services where the cost and administrative burden of other purchasing methods may be equal to or greater than the value of the items or services purchased.

Employees are encouraged to use their judgment to promote the objectives of the Town's procurement policies in any direct purchases.

PURCHASES UP TO \$1,500

1. For any purchases other than those items contained in a Standing Order, and when the amount is \$1,500 or less, the buyer making the purchase shall obtain prices from more than one supplier, preferably three (3) or, they may purchase directly from catalogues, suppliers' lists or through negotiations, upon assuring themselves that all prices offered are fair and equitable. Copies of all quotations received shall be forwarded along with vendor invoice, purchase order, or other contract document to accounts payable clerk.
2. A purchase order shall be issued for all purchases in excess of \$501.

SCHEDULE "C"

INFORMAL AND FORMAL QUOTATION ACTIVITY

1. INFORMAL QUOTATIONS:

- a) Purchases of goods and/or services valued at greater than \$1,500 but less than \$10,000 shall be made after obtaining at least 3 written quotations where possible.
- b) The written quotes will be obtained from suppliers without formal advertising or receipt of sealed bids.
- c) A purchase order shall be issued.
- d) No report to council is necessary.
- e) Copies of all quotations received shall be forwarded along with vendor invoice, purchase order, or other contract document to accounts payable clerk.

2. FORMAL QUOTATIONS:

- a) Purchases of goods and/or services having a value greater than \$10,001 shall be obtained using a formal competitive process.
- b) The requisitioning department shall prepare a Quotation document which provides prospective bidders with clear instructions, specifications, terms and conditions. The Quotation document shall provide a Quotation Form on which a bidder can make his/her quotation and a Quotation envelope in which to submit the form.
- c) The requisitioning department shall give notice of the Request for Quotation in one local newspaper and/or trade paper and on the Town of Pelham Web site. Requests for quotation may also be sent directly to known vendors.
- d) The quotation document shall clearly indicate the final time and place for the receipt of the quotations. The quotations will be received in the Clerks Department. There will be no formal opening of quotations.
- e) At least three quotations should be received where possible.
- f) All quotations received will be evaluated by the requisitioning department.
- g) The Department Director will prepare a summary report indicating the selected vendor. The report will require the approval of the CAO before a Purchase Order can be issued. No report to Council is necessary.
- h) The CAO approved report along with the quotations received, a copy of the purchase order and invoice shall be submitted to the accounts payable clerk for payment.

SCHEDULE “D”

FORMAL TENDERING PROCEDURES

USE OF TENDERS

A request for tender shall be issued for purchases exceeding \$25,000 where all of the following criteria apply:

1. two or more sources are considered capable of supplying the requirements
2. the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria
3. the market conditions are such that tenders can be submitted on a common pricing basis
4. it is intended to accept the lowest priced compliant bid without negotiations

In addition, tenders shall be issued for all purchases of all vehicles and rolling stock regardless of the estimated cost except for fire department vehicles which may be purchased by way of RFP's.(See schedule “E”)

The following are the procedures for issuing, receiving and awarding tenders.

General Process

In all cases, tenders shall be coordinated by the Department Director in conjunction with the Town Clerk. The Department Director will ensure:

1. completeness of documentation
2. advertisements are arranged
3. closing dates and tender opening are scheduled
4. vendor contact for information is appropriate

Tender Document Preparation

The specifications contained within the tender documents are the responsibility of the using department.

In the case of Construction Contracts, standard bidding documents of the construction industry will be employed as the Town's formal tender forms whenever possible.

Contents of the Tender Document

The tender document will consist of a number of sections. They are described below. When considered in its entirety, the document must contain the appropriate information so that staff evaluating the bids can determine that;

1. the bidder understands the full scope of the tender for which bids have been invited; and
2. the bidder is capable and willing to perform all of the required work or provide all of the required goods/services; and
3. the bidder is capable and willing to enter into a legal agreement with the municipality for the provision of the required goods/services; and
4. the bidder offers financial guarantees that a formal agreement will be executed, and that all goods/services will be provided following the terms of the executed agreement.

Tender documents will contain at least the following:

1. A cover sheet with the name of the tender, the closing date and time, and the issuer or contact person within the purchasing department.
2. **Information to Bidders.** This contains non-technical information that advises the bidders of the general terms and conditions that apply to the tender of goods and/or services.
3. **Bidders meeting.** A Director may opt to hold a forum during which bidders have the opportunity to ask questions about the specifications or other terms and conditions of the tender or proposal call. All potential bidders known to the Town at the time of the forum announcement must be notified of the time, date, location and purpose of the forum. The Media used to issue the invitation is at the discretion of the Director. The intent and timing for a bidder forum should be included in the tender documents. Town staff will record questions and answers from the forum.
4. **Performance Guarantee/Financial Guarantee.** To ensure proper execution of the work, a performance guarantee in the form of cash, certified cheque, irrevocable letter of credit, or bond (performance, labour, and/or material) may be required. All requirements must be clearly outlined in the Information to bidders.
5. **Specifications.** The specification section will provide details to describe accurately and precisely the nature, scope and extent of the goods and/or services required. As outlined in the policy specifications may not be structured to exclude certain vendors or manufacturers unless there is documented evidence to warrant exclusion.

Form of Tender

The tender form when properly completed and signed is a legal offer by the bidder to carry out the tendered work. The tender form should include an acknowledgment from the bidder that he has reviewed and understands all of the tender documents, and that he is prepared and capable of carrying out the contemplated work. Proper and clear identification of the bidder as well as clear bid prices must appear on the completed tender form.

Tender envelope

A standardized tender envelope or envelopes are provided to all bidders where appropriate.

Bidder's List

To ensure receipt of the best value for dollars spent the Town of Pelham is continuously searching for new sources of supply in order to secure the best products and services at the most competitive prices.

To this end the Town maintains a database of vendors who have expressed an interest in doing business with the Town. Suppliers who wish to be included in the list will be required to complete a Bidder's Application Form. (See Schedule I). The database is available for use by all Town staff.

The Town may remove a vendor's name from consideration for a contract under this policy for a period of up to five years on the basis of documented poor performance or non-performance on a Town contract. Any vendor being excluded from the bidders list due to poor performance will be reported to Council.

The Town intends to make reasonable efforts to inform all registered bidders of relevant opportunities, but shall not be liable for any failure to do so. Requests for Proposals and Tenders are posted on the Town website at <http://www.town.pelham.on.ca/>. To avoid missing an opportunity to bid on Town contracts vendors need to check the Town web site regularly.

Where a bidders list is used, advertising on the Town's web site may be the only other advertising used.

Advertising

The issuing Department Director will give notice of the Tender in a newspaper and/or in an appropriate professional association publication, and on the Town's web site. Electronic tendering networks, as available may also be employed.

All tenders shall be open for bid by vendors for a minimum period of two weeks unless critical or exceptional time constraints limit the period available for bidding.

Pre-qualification

Pre-qualification of bidders is desirable to ensure that prospective bidders have the necessary knowledge, experience, and financial resources to complete the work.

If pre-qualification is required for a particular tender, no Form of Tender or Tender Envelope is to be issued to any prospective bidder until he has pre-qualified. However, during the prequalification process, certain of the documents (i.e. specifications) may be made available.

Release of Information to Prospective Bidders

Upon the request of a prospective bidder, the issuing Department Director or designate shall supply the following material for each contract:

1. one copy of the official tender form
2. one standard tender envelope, if applicable
3. tendering materials, including specifications, plans etc

A fee may be charged for the specifications. This fee shall be non-refundable.

A list of prospective bidders shall be maintained by the Department Director or designate. Names and addresses shall be recorded when tender documents are released to facilitate distribution of addenda and when necessary to extend or cancel a request for tender under call. However, where a pre-qualification requirement exists and the prequalification process is complete, the release of the Tender documents will be to qualified bidders only.

Changes to Tenders Under Call

Preparation of Addenda

Addenda will be issued under the following circumstances:

1. Interpretation of tender documents as a result of queries from prospective bidders.
2. Revisions, deletions, additions or substitutions of any portion of the tender documents.

The Department Director or designate shall approve the issuance of any addenda.

Notification of Addenda to Prospective Bidders

A copy of all addenda shall be sent by registered mail, or by fax confirmed by a telephone call or by electronic correspondence when appropriate, to each prospective bidder who obtained tender

documents. All remaining tender documents not yet distributed shall have the addenda appended.

Tender Cancellation

When it becomes necessary to cancel the tender, all prospective bidders who received tender documents shall be notified of the cancellation using the method for notification of addenda detailed above.

Submission Requirements

All tenders shall be received by the office of the Town Clerk. They will be time and date stamped and placed in a locked container until after the closing time. Any tenders received after the closing time and date will not be received and will be returned unopened to the submitting vendor.

Tenders are required to conform to the conditions listed below:

1. The correct Tender Form, as supplied by the Town, must be used and in the possession of the Clerk or his duly authorized representative, on or before the tender closing date and time.
2. The tender must be legible, completed in a non-erasable medium and all items must be bid, unless the tender specifically permits otherwise, with the unit price on every item and other entries clearly shown.
3. Adjustments by telephone, letter, fax, or electronic correspondence to a tender already submitted will not be considered. A bidder desiring to make adjustments to a tender must withdraw the tender. See section within this Appendix titled "Withdrawal of Tender Bids" for the relevant procedures.
4. The official Tender Return Envelope supplied by the Town must be used to submit the bid without any extra exterior covering. Provision shall be made on the Tender Envelope for the contract number and the name and address of the Contractor or Supplier. Should a bidder feel that the envelope is insufficient in size to accommodate his submission, he should contact the Department Director for instructions. Fax or e-mailed tender submissions will not be accepted.
5. The Tender Form shall be signed in the space provided on the form. All specified signatures and company seals or specified signatures duly witnessed must be provided. A seal need not be provided if the signer indicates authority to bind the corporation in writing and the signature must be witnessed. If a joint bid is submitted, it must be signed on behalf of each of the bidders and if the signing authority for both bidders is vested in one individual, he shall sign separately on behalf of each bidder.

6. Erasures, overwriting or strike-outs must be initialed by the person signing on behalf of the bidder.
7. Agreement to bonding and/or bid deposits may be required at the discretion of the Department Director and Director of Finance.

The quantities shown for the items in the Request for Tender are estimates only and are for the sole purposes of indicating to tenderers the general magnitude of the work. For any work done or materials supplied on the unit price basis, the successful bidder will be paid for the actual measured quantities at the respective unit prices tendered.

If any of the tender requirements have not been met, the tender shall be considered to be an "Improper Bid" and dealt with as set out in Appendix E – Acceptance or Rejection of Improper Bids.

Receiving of Tender Bids

Locked Tender Box

A locked tender box shall be kept in the office of the Town Clerk and under control of the Clerk to receive tenders. It is the responsibility of the staff of the Clerk's office that all tenders placed in the tender box are clearly identified as to contents and contract number. Should a submission be received without proper contract identification, it will be returned unopened. In the case where the submission was not hand delivered, reasonable efforts will be made to inform the bidder of their error. The tender opening will not be delayed by these efforts as it is the responsibility of the vendor to correctly identify their submission. Fax or electronic submissions will not be accepted.

Time and Date Stamping and Recording of Tenders

When a tender is received, the sealed envelope shall be marked with the time and date of receipt and initialed by the person receiving the tender. Receipt of the tender shall be recorded on a list of tenders received and tenders shall be deposited unopened in the proper Tender Box.

Late Submissions

Regardless of the time a bid is received, the envelope shall be time and date stamped. If the bid is received after the time of closing, it shall be refused and returned unopened to the bidder. If a tender is to be returned by mail, it shall be accompanied by a covering letter stating that the tender could not be accepted due to late arrival. If a late bid is received without a return address on the envelope, it shall be opened, address obtained and then returned. The covering letter should state why the envelope could not be returned unopened.

Action on Correspondence pertaining to Adjustments, Corrections or Restrictions to a Tender

Any correspondence pertaining to adjustment, corrections or restriction to a tender, which is received with a tender but outside the tender envelope or is received after a tender has been submitted but prior to closing time, shall not be considered, and the bidder shall be advised by mail or phone of the withdrawal procedures if possible and practical.

Withdrawal of Tender Bids

Prior to Opening

The withdrawal shall be allowed if the request is made before the closing time for the tender. Withdrawal request must be directed to the Clerk by letter. Telephone requests shall not be considered. Tenders confirmed as withdrawn prior to being placed in the tender box shall be returned unopened to the bidder.

The withdrawal of a tender does not disqualify a bidder from submitting another tender for the proposed contract.

Withdrawal requests received after the tender closing time will not be allowed. The bidder shall be informed that the withdrawal request arrived too late for consideration. However, when the bids are read out at the bid opening, and if it is the lowest bid on a proposed contract, the bidder may then proceed in accordance with the following section titled "During the Opening".

During the Opening

During a tender opening at the conclusion of the reading out of bids on a proposed contract, the low bidder may withdraw any of his remaining tenders on other contracts prior to the opening of bids thereon. He shall attest in writing to his identity and state the contract or contracts on which he desires to withdraw. The Notice of Withdrawal of Tender must be signed by the bidder. This Notice must be handed to the Clerk before the opening of the first tender on the proposed contract to which it applies. The Clerk shall attach it to the applicable tender. The Clerk shall read out the bidder's name and announce that the tender has been withdrawn in accordance with established procedure. He shall not open the withdrawn tender.

Tenders withdrawn under this procedure shall not be reinstated. If more than one tender is read out under the same name for the same contract and no withdrawal notice has been received, the tender contained in the envelope bearing the latest date and time stamp shall be considered the intended bid. The first tender received shall be considered withdrawn and returned to the bidder in the usual manner.

Opening of Tenders

Tenders will be opened publicly by the Town Clerk or designate and recorded by a member of the Clerk's Department staff.

Action on Correspondence found enclosed in Tender Envelope

If correspondence is found enclosed with a tender which, in the opinion of the Department Director, could qualify the bid in any way, the tender shall initially be considered as an "Improper Bid" and shall be so noted in the record of tenders opened and the tender read out in the normal manner.

This correspondence and the tender shall be referred to the appropriate Department Director for decision as to acceptance or rejection. See Appendix E – Acceptance or Rejection of an Improper Bid.

All Tenders Received must be Accounted For

When tenders have been opened and sorted, the clerk shall check the Listing of Tenders received against the number of tenders opened to account for all tenders received. If a discrepancy occurs, the tender opening proceeding shall be delayed until all tenders received balances with the number of tenders opened.

Reading out of Bid Amount and Listing of Information

Every tender received within the specified time shall be opened in full view of those attending. Each bidder's name and the total tendered amount shall be read aloud by the Clerk or designate, and recorded by the Clerk's Department staff member.

Should the reading aloud of all prices be impractical due to a large number of individual prices or options or for reasons where a total price is not stated on the Form of Tender, only the company names of the bidders will be read out at the time of the tender opening.

More than One Submission Under the Same Name

During the reading out of tenders, staff shall check for more than one tender under the same name (without a notice of withdrawal). If this situation occurs, it shall be dealt with as detailed in the section titled "Withdrawal of Tender Bids – During the Opening". If two tenders for the same contract are received in the same tender envelope, the signed copy or, if both are properly executed and prices differ, the lower price shall be considered the intended bid.

Checking Tenders

The tenders will be checked by the Department Director as soon as possible following the public tender opening in order to determine that:

1. All tender requirements have been met as stated in the tender documents and this policy.
2. All unit prices have been correctly extended and totaled.

Tenders which do not conform to the tender requirements or which require mathematical corrections shall be deemed "Improper Bids" and shall be dealt with as set out in Appendix E – Acceptance or Rejection of Improper Bids.

Improper Bids

Following completion of the checking procedures any bids deemed "Improper bids" shall be so noted on the Record of Tenders Opened. This notation shall clearly state the reason the bid has been considered improper. The appropriate department director shall then decide on the acceptance or rejection of all tenders noted as improper pursuant to the provisions of Appendix E – Acceptance or Rejection of Improper Bids.

Evaluation of the bids will be made by the Department Director of the user departments.

Recommendation to Award

Any recommendation to award will be in favour of a bidder meeting specifications, terms and conditions and whose tender offers the lowest cost considering "total acquisition cost" as per Section 2 of the policy and other consideration as outlined specifically in Section 7 – Award Consideration.

A written report will be forwarded through the Department Director to the General Committee for approval and then forwarded to Council for ratification. If the lowest bid is not accepted the report must clearly state the reasons why it did not meet specifications.

Award

When the necessary approvals have been received, the Department Director may use the appropriate documents to contract for the supply of the tendered goods and/or services.

The issuing Department shall notify each of the unsuccessful bidders thanking them for their participation.

Disposition of Deposit Cheques

Following the recommendation to award a contract to a specific bidder, bid deposits of all bidders other than the low bidder shall be returned to the applicable bidders by registered mail to the last known place of business or by personal delivery, by the issuing department. If a deposit cheque is returned by personal delivery, a letter acknowledging receipt must be signed by the bidder.

The bid deposit cheque of the successful bidder shall be held until the contract is executed.

Action when Successful Bidder does not finalize Contract

If a contract has been awarded and the successful bidder fails to sign the contract or provide the necessary security within the time specified in the tender documents, the Department Director may grant additional 48 hours to fulfill the necessary requirements prior to commencing any work or may recommend one of the following:

1. that the contract shall be awarded to the next low bidder
2. that the contract shall be cancelled

In either case, the Tender Bid Deposit of the low bidder shall be forfeited.

Purchase Order

A tender for the purchase of goods shall be confirmed by the issuing of a Purchase Order. All other tenders shall be confirmed by executed contract or letter of award. The Town Solicitor may determine which is appropriate. In this case, all payments will be made by Progress Certificate Draws.

GUARANTEE OF CONTRACT EXECUTION AND PERFORMANCE - TENDERS & RFP's

The Department Director may require that a bid be accompanied by a Tender/Bid Deposit to guarantee entry into a contract.

Unless otherwise specified, the refundable deposit requirements for Requests for Tenders and Request for Proposals shall be:

Estimated Total Costs	Minimum Deposit Required
\$25,000 or less	5% (rounded up to the nearest dollar)
Greater than \$25,000	10% (rounded up to the nearest dollar)

In addition to the above, the successful supplier may be required to provide:

1. A Performance and Maintenance bond to guarantee the faithful performance of the contract.
2. A Labour & Material Bond to guarantee the payment for labour and materials to be supplied in connection with the contract.

The Department Director 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 cheques, bank drafts, irrevocable letters of credit, money orders, progress payments and

holdbacks, financial bonds issued by an approved guarantee company properly licenced in the Province of Ontario, on bond forms acceptable to the Town.

The Town is authorized to cash and deposit any bid deposit in the Town's possession that is forfeited as a result of non compliance with any of the terms, conditions and/or specifications of a sealed bid. The Town does not pay any interest on any bid and/or performance deposits.

The Town of Pelham has endorsed the use of the "Niagara Peninsula Standard Contract Document" (NPSCD) for use for roads, water and sewer projects. Tenders for these projects shall comply with this NPSCD document. NPSCD document is available through Regional Niagara.

INSURANCE

The standard insurance minimums are as follows:

General Liability Policy - \$2 million

Automobile Liability Policy for both owned & non-owned vehicles - \$2 million

Homeowners (e.g. for rental of facilities) - \$2 million

General Liability and Automobile Liability policies - for contract work done for most:

Public Works projects - \$5 million

Professional error and omissions liability - \$ 2 million

Professional error and omissions liability for public works projects & design - \$5 million

Builder's Risk - the amount of the project cost

Bid documents must clearly indicate insurance requirements to be provided by the successful bidder.

The successful bidder must furnish the Town at his/her own cost, a "certified copy" of a liability insurance policy covering public liability and property damage for no less than the minimum amounts stated above, or greater limit as determined by the Department Director, and provided for in the bid documents. The form must be to the satisfaction of the Town and be in force for the entire contract period. The policy must contain:

- a) a "Cross-Liability" clause or endorsement
- b) an endorsement certifying that The Corporation of the Town of Pelham and the successful bidder are included as an additional named insured
- c) an endorsement to the effect that the policy or policies will not be altered, cancelled or allowed to lapse without thirty days prior written notice to the Town.

Contractor's Liability Insurance Policy shall not contain any exclusions of liability for damage, etc, to property, buildings or land arising from:

- a) the removal or weakening of support of any property, building, or land whether such support be natural or otherwise
- b) the use of explosives for blasting
- c) the vibration from pile driving or caisson work, provided that the minimum coverage for any such loss or damage shall be \$5,000,000

The successful bidder shall provide a certificate from the Workplace Safety and Insurance Board to the Town, certifying that the Contractor is in good standing with the Board.

The successful bidder shall, before commencing work on the project, give to the Director of the Ministry of Labour, a notice in writing with a copy to the Contract Administrator in accordance with the current Section(s) of the Occupational Health and Safety Act where applicable.

The Department Head shall be responsible to ensure that all insurance requirements and copies are received to the satisfaction of the Town. Failure to execute the contract and to file satisfactory bonds, insurance policies and Workplace Safety & Insurance Board clearance certificate as required herein within fourteen (14) days of contract award shall be just cause for the cancellation of the contract award and the forfeiture of the tender deposit to the Town. The Town shall then have the right to award the contract to any other bidder or to re-tender the contract. The decision to award the contract to another bidder is made by the Department Director and approved by the CAO.

SCHEDULE “E”

PROCEDURES FOR REQUEST FOR PROPOSALS

A Request for Proposal is issued in cases where the exact specifications for goods and or services are not predetermined, but the outcomes expected are reasonably stated. By issuance of a Request for Proposal, the Town is soliciting creative input and inviting suppliers to propose a solution to a problem, requirement or objective. All submissions become the property of the Town.

Form of Proposal

Since the exact specifications are not predetermined, the form of proposal will also be less specific. However, it should clearly indicate those needs which have been determined and which will have to be fulfilled by the successful proponent.

Opening of Proposal Submissions

The opening follows the general procedures for the opening of tenders, except that no prices will be read out. The receipt of the submissions and by whom they were submitted will be read aloud and recorded. People wishing to submit shall be advised of the time and location of the meeting.

Evaluation Process

The selection of the successful proponent is based on the effectiveness of the proposed solution rather than on the price alone. As the evaluation process will be more complex, the process should be clearly outlined in the Request for Proposal documents. All criteria used to evaluate proposals should be listed.

The Director of the issuing department will review proposals against the established criteria and determine the final rating results and ensure that the final rating results with supporting documents are kept in the procurement file. A selection committee may be established by the responsible Director at his/her discretion and shall comprise regular staff with the relevant expertise.

It is usual that the evaluation process will encompass a longer time frame than the evaluation process for a tender. For this reason, the Request for Proposal documents should indicate the expected time frame for completion of the process up to and including the anticipated presentation of a recommendation to Council.

It is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirements. This differs significantly from Request for Tenders where the Form of Tender of the successful bidder becomes the basis of the eventual contract for goods and/or services.

1. Request for Proposals documents would follow formal tender procedures and processes, Schedule B and will focus on the following unique components:
 - a) Requests for Proposals having expected values of \$25,000 or more annually will follow a structured format with approvals similar to Quotations and Tenders as applicable.
 - b) Requests for Proposals will clearly establish required project outcome or requirements and contain existing conditions if applicable.
 - c) Requests for Proposals will specifically outline response requirements at time of proposal receipt.
 - d) Requests for Proposals will clearly outline “the evaluation criteria” complete with score values for each that will form the basis of contract award.
 - e) The two envelope bid submission system will be used when a Request for Proposal is used. The first envelope will include the technical and qualitative information required to answer the proposal call and the second envelope will contain the price. The second envelope will only be opened if the technical score of the first envelop shows that the bidder meets the minimum criteria established in the RFP. The price envelope will remain sealed for those bids that do not qualify. A selection committee is to be identified and will be responsible for weighing vendor responses using established scores identified in the proposal call.
 - f) Proposal unit values or contents of vendor proposal responses will not be disclosed and will be held in confidence. Scoring activities of the selection committee will also be held in strict confidence until after the award. Only the final contract awarded price of the successful proponent will be available upon award.
 - g) Specific contract documents may be required such as architectural, engineering or construction related standard documents.
 - h) Should none of the submissions meet minimum criteria, purchase by negotiation is an option available to the Town.

SCHEDULE “F”

EXCEPTIONS TO METHODS OF ACQUISITIONS

1. EMERGENCY PURCHASES

Notwithstanding the provisions of this policy, the following shall only apply in the case of an emergency, when an event occurs that is determined by a Department Director, the CAO or Mayor and/or Council to be:

- a) A threat to public health
- b) The maintenance of essential Town services
- c) The welfare of persons or of public property
- d) The security of the Town’s interests or financial liabilities arising from unexpected conditions

And time does not permit the Department Director to follow normal approved purchasing practices, the Director is authorized to do so in the most expedient and economical means possible.

The following rules apply to emergency purchases.

1. Purchases under \$50,001

- a) The Department Director shall secure the required goods and/or services by the most open market procedure at the lowest obtainable price.
- b) A purchase order shall be issued.
- c) A follow up report shall be submitted to Council.

2. Purchases over \$50,000

- a) The Department Director shall obtain the prior approval of the CAO.
- b) A purchase order shall be issued.
- c) A follow up report shall be submitted to Council.

2. PURCHASE BY NEGOTIATION

All purchases of goods and services shall be by a competitive method except for the following circumstances when the negotiation method would apply;

- a) When goods or services are available from one source only.
- b) Where compatibility with an existing product or process is the overriding consideration.
- c) Where two or more identical lowest bids have been received.
- d) When due to market conditions, goods are in short supply.
- e) When all acceptable bids received fail to meet the specifications or tender terms and conditions and it is impractical to recall tenders or quotations.
- f) When no bids are received in a quotation, tender or request for proposal.
- g) When only one bid is received in a tender or quotation call.
- h) The methods of negotiation shall be those accepted as standard negotiating procedures that employ fair ethical practices as outlined in the Purchasing code of ethics of the Purchasing Management Association of Canada and the National Institute of Governmental Purchasing Inc.
- i) Where the extension or reinstatement of an existing contract would be the most cost effective or beneficial method and is in the best interest of the Town.
- j) In an emergency, where goods and services are deemed necessary and time and safety concerns reasonably limit the use of any other prescribed procurement process.
- k) Where goods are required for resale and thus an important factor in choosing a successful bidder is marketability and profitability.
- l) Where none of the responses to a request for proposal meet the minimum requirements.

Any negotiated purchase contract for \$5,000 or more in value including taxes and freight shall be approved by Council.

3. **STANDARDIZATION**

A management report will be required to support the need to follow a “standardization” method of “single” sourcing a particular product, service or support activity, whereby a particular source of supply may be identified based on technical specifications.

This process will allow for a reduction in the number of goods and services required, maximized volume buying opportunities via economies of scale, reduced handling, training and storage costs, and increased co-operative purchasing opportunities.

SCHEDULE “G”

BID IRREGULARITIES

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

For the purposes of this policy, bid irregularities are 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.

A “**minor irregularity**” is a deviation from the bid request that affects form, rather than substance. The effect on price, quality, quantity or delivery is not material to the award.

MATHEMATICAL ERRORS-RECTIFIED BY STAFF

The department director may correct errors in mathematical extensions and/or taxes and the unit prices will govern.

ACTION TO BE TAKEN

The Department Director subject to the review and approval of the CAO, will be responsible for all action taken in dealing with bid irregularities.

SHCHEDULE “H”

RESPONSES FOR ADMINISTERING IRREGULARITIES CONTAINED IN BIDS

IRREGULARITY	RESPONSE
1. Late Bids	Automatic rejection, not read publicly and returned unopened to the bidder.
2. Unsealed Envelopes	Automatic rejection
3. Insufficient Financial Security (e.g. No bid deposit or insufficient bid deposit)	Automatic rejection
4. Failure to insert the name of the bonding company in the space provided for in the Form of Tender.	Automatic rejection
5. Failure to provide a letter of agreement to bond where required.	Automatic rejection
6. Incomplete, illegible or obscure Bids or Bids which contain additions not called for, erasures, overwriting (not initialed), errors or irregularities of any kind.	Automatic rejection
7. Documents, in which all necessary Addenda have not been acknowledged.	Automatic rejection
8. Failure to attend mandatory site visit.	Automatic rejection
9. Bids received on documents other than those provided by the Town.	Automatic rejection
10. Failure to insert the Bidder's business name in the spaces provided in the Form of Tender.	Automatic rejection
11. Failure to include signature of the person authorized to bind the Bidder in the space provided in the Form of Tender.	48-Hours to rectify situation
12. Qualified bids (bids qualified or restricted by an attached statement).	Automatic rejection
13. Bids containing minor obvious clerical errors.	48-Hours to correct and initial errors.
14. Bids completed and/or signed in erasable medium.	Automatic rejection

SCHEDULE "I"
BIDDERS APPLICATION FORM

Company Information

Company Name:

Address 1:

Address 2:

Phone Number:

Toll Free Phone Number:

Legal Status: Corporation ☐ Company ☐ Partnership ☐ Individual ☐

GST Registration Number:

Contact Information

Contact Name:

Title:

Phone Number:

Email Address:

Product/ Service Information

Under one of the following headings please specify the appropriate Commodity/Service your business would provide.

Contracting

Consulting

Roads Materials

Printing

Computer Products and Services

Shop/Tools and Equipment