

## BY-LAW NO. 150

### A BY-LAW TO REGULATE PURCHASING, LEASING, TENDERING AND DISPOSAL OF SURPLUS PROPERTY, EQUIPMENT AND MATERIALS

The Mayor and Council of the Town of Sackville enact as follows:

1. This By-Law applies to every contract for the construction, repair or alteration of land, structures or equipment owned by the Town, to the purchasing and leasing of goods and services required by the Town, and the disposal of surplus property, equipment and materials.

2. 1) Subject to subsection (2) every award of contract to which this By-Law applies shall be preceded by public tender.

2) Where a proposed contract has a value, estimated by the Chief Administrative Officer or the Town's Consultant of less than,

a) in the instance of works other than highways, \$6,000.00, the award of contract may be negotiated;

b) in the instance of highway work, \$25,000.00, the award of contract may be negotiated;

rather than preceding with the award of contract by public tender.

c) The Chief Administrative Officer will assign from time to time, purchasing authorities to Department Head or nominee as required for prudent operation of Municipal Departments.

3) Where an award of contract would fall within the provision of subsection (2) but those provisions are not followed then the award shall be made in accordance with subsection (1).

3. A Public Tender award of a contract to which this By-Law applies shall include:

a) public advertisement of the work to be carried out published in one or more newspapers reasonably in advance of the tender closing date;

b) sufficient information in the advertisement referred to in paragraph (a) to enable a prospective tenderer to obtain tender documents, deposit a tender and attend the tender opening; and

c) the opening of properly deposited tenders in public and the recording of the name and the tender price of each tenderer whose tender is not rejected in accordance with section 7.

4. 1) A person submitting a tender shall deposit the tender in the tender box at the Town Hall within the time stipulated in the public notice of tender.

2) Responsibility for deposit, in the designated tender box, of a tender in the Town Hall within the proper time is that of the person submitting the tender and the Town assumes no responsibility for depositing within the proper time those tender submissions which have been mailed or left with employees of the Town.

3) Only those tenders deposited in the designated tender box at Town Hall will be considered.

4) A person or corporation submitting a tender may amend the tender submitted subsequent to the deposit of the tender in the designated tender box at Town Hall and prior to the time of opening of the tenders by:

- a) letter or fax sent by the person signing the original tender deposit;
- b) depositing the letter or fax of the amendment in the designated tender box in the Town Hall prior to the close of the tender, and;
- c) clearly identifying the project being tendered and the tender being amended on the face of the amending letter or fax.

5) An amendment of tender shall not disclose the amended total tender price but shall show:

- a) the revised bid price per items to be amended in the case of a unit price contract, or;
- b) the amount to be added to or subtracted from the contract price in the case of a lump sum contract, or;
- c) Subsection (2) applies to a letter or fax of amendment of tender.
- d) If the tender deposit and amendment are found to be a valid submission, then the contract price shall be amended to reflect the original tender deposit as amended by the tender amendment.

6. 1) A tender submitted for a proposed contract to which the Act and this By-Law applies shall be rejected and the tender not considered if the tender:

- a) is not in a properly sealed envelope;
- b) is not accompanied by the required security deposit or bid bond in the proper amount;
- c) is not accompanied by a valid bid bond, bank draft, money order or valid credit letter where required,
- d) is not properly signed by the tenderer;
- e) does not contain the bid price, unit price or fixed price written in words;
- f) does not have the words "dollars" and, where applicable, "cents" set out in the written item bid;
- g) contains any form of qualifications of or, unless the tender documents otherwise provide, any unsolicited alternative to the tender;
- h) does not contain a bid for each item required to be bid;
- i) does contain a bid on an item not included in the bid form;
- j) is not contained in an envelope having on the face of it the name of the tenderer and identification of the contract for which the tender is submitted;
- k) does not contain all addenda issued to prospective tenderer each signed by the tenderer;
- l) is the second one submitted by the same tenderer in which cases all tenders submitted by that tenderer shall be rejected;
- m) contains a change in a written bid price not initialled by the tenderer;
- n) omits any document required by or fails to comply with any provisions of the tender documents, or;
- o) otherwise materially deviates from accepted tendering practices.

2) Subject to subsection (1) a tender submitted for a proposed contract to which the Act and this By-Law applies may be accepted notwithstanding that it contains;

- a) errors in mathematics, in which case the proper computation will be carried out and the resultant total used in determining the tender value;
  - b) a conflict between the written bid price and the bid price in numbers in which case the bid is corrected to reflect the written bid price.
7. 1) Lowest or any tender not necessarily accepted.
- 2) Persons submitting tenders must submit their tenders with unit prices written out and lump sum prices written out.
- 3) The total tender price in a unit price tender need not be written out.
- 4) The written figures in a tender shall govern and be binding on the tenderer even though totals arrived at disagree with figures or totals given in figures.
8. Every tender shall be opened in public as per the Policy Tendering Procedure of the Town of Sackville.
9. 1) All tenders shall be opened in public at Town Hall.
- 2) Each tender shall be opened individually and checked for completeness and where it is apparent that the tenderer has failed to comply with the requirements of subsection (1) of section 6, the tender opening committee shall reject it forthwith.
- 3) If the tender and amendment of tender, if any, is not rejected, the tender price, as amended by an amendment of tender, if any, and the name of the person submitting the tender will be recorded.
- 4) If the tender is rejected the tender will be returned to the person submitting the tender.
- 5) The award of the contract will not take place at the time of tender opening.
10. The decision to award a contract based on tenders opened under the provisions of this By-Law may be made and the contract awarded by the Council and notification of the successful tender or may be communicated by person or persons designated by Council.
11. Preference in the awarding of contracts shall be given to local firms or suppliers where price, quality, service and other consideration are deemed to be equal.
12. 1) Where the tender documents stipulate that a statement shall accompany each tender indicating the price at which the tenderer would supply any named item or items from a named supplier, the tenderer shall submit with his tender a separate list showing the

prices included in his tender price for the named item or items, and the prices for such items if supplied by the named supplier.

2) The tender opening committee shall not post the information contained in the separate list.

3) The Town may ask the successful tenderer to use the named items supplied by the named supplier in the construction of the work and his tender price per unit shall be amended accordingly.

13. The Town may, after notifying the successful tenderer but before the contract is entered into, request the successful tenderer to accept a subcontractor or supplier other than one submitted by him in his tender in which case;

- a) the successful tenderer may refuse or
- b) if the successful tenderer accepts, his contract price will be adjusted accordingly.

#### DISPOSAL

14. A decision as to what is surplus equipment or material will be made in joint consultation between the Department Head or nominee and the Chief Administrative Officer and will be ratified by Council.

15. All surplus equipment or material, with a present value over \$1000.00, shall be tendered, and awarded by Town Council.

16. All surplus equipment or material, with a present value of less than \$1000.00, shall be disposed of by the Chief Administrative Officer in accordance with the following;

a) All land sales must be authorized by Town Council, in advance regardless of the value.

b) The sale of bicycles shall be on an annual basis, mid-May preferred, at the discretion of the Chief of Police.

c) When all bids received in accordance with a tender, are rejected, items for sale may be sold by negotiated private sale by the Chief Administrative Officer as authorized by Council.

17. Any surplus equipment or material with a present value of less than \$500.00 may be disposed of by negotiated private sale, if in the opinion of the Chief Administrative Officer, it would be advantageous for the Town to do so.

18. All monies derived, from the sale of surplus equipment or material shall be deposited in the Machinery and Equipment fund of the Town of Sackville.

19. **By-Law #134 is hereby repealed.**

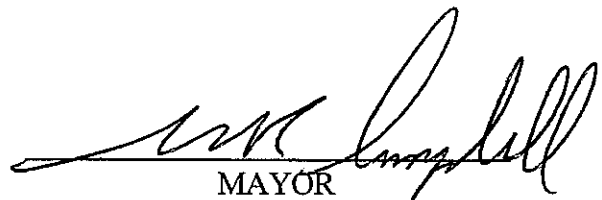
20. **This By-Law comes into force on the date of final passing thereof.**

Read a First time this 14th day of July 1997.

Read a Second time this 14th day of July 1997.

Read a Third time and done and passed by Council this 11th day  
of August 1997.

  
CLERK

  
MAYOR