Being a by-law of the Municipal Corporation of the Hamlet of Clyde River in Nunavut to obtain the best value by promoting the growth of new and existing business sectors in Clyde River, providing incentives to locally established businesses while treating all suppliers fairly in all or in any part of the Hamlet of Clyde River, pursuant to the Hamlets Act;

WHEREAS the Council of the Corporation of the Hamlet of Clyde River has the authority to pass bylaws regulating the expenditure control of the Municipal Corporation, pursuant to the *Hamlets Act*;

AND WHEREAS Council deems it appropriate that purchases be made using a competitive process that is open and transparent;

NOW, THEREFORE, THE COUNCIL OF THE HAMLET OF CLYDE RIVER, at a duly assembled meeting enacts as follows:

SECTION 1 – SHORT TITLE

This by-law may be cited as the "Purchasing By-Law".

SECTION 2 – INTERPRETATION

In this by-law, following terms (unless the context specifically requires otherwise) shall have the following meaning:

2.1	"Acquisition"	means the process whereby property or a service is borrowed, constructed, foreclosed, leased, leased to purchase, purchased or rented;
2.2	"Addendum"	means any change or clarification to the tender documents issued during the tender call period. For all contractors to bid on the same tender package, addenda must be used to ensure that all bidders receive written notification of changes or clarifications made during tender call period;
2.3	"Agreement"	means the mutual understanding of the Hamlet and at least one other party. Understanding is usually conveyed through a contract or purchase order;
2.4	"Award"	means authorization to proceed with the purchase of goods, services and construction from a chosen supplier;
2.5	"Best Value"	means the optimal balance of performance and cost determined in accordance with a pre-defined evaluation plan;
2.6	"Bid"	means an offer or submission from a supplier in response to a bid solicitation; also, to provide a service under stated terms and conditions;
2.7	"Bid Solicitation"	means a formal request for bids that may be in the form of an Expression of Interest, Request for Quotation, Request for Qualifications, Request for Tender, Request for Proposal or

By-Lav	w Title: Purchasing, Tenderin	g, Contract & Local Incentive By-Law Number: 118
		Request for Standing Offer (As and When).
2.8	"Budget"	means budget of the Hamlet of Clyde River for the current fiscal year.
2.9	"Hamlet"	means the Municipal Corporation of the Hamlet of Clyde River.
2.10	"Hamlet Property"	means real or personal property belonging to the Hamlet.
2.11	"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, 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 or architectural work, but does not include professional services related to the construction contract unless they are included in the procurement.
2.12	"Contract"	means a binding agreement in writing by way of a Service Agreement or Service Agreement incorporating a formal agreement or a formal agreement between two or more parties that creates an obligation to do or not to do a particular thing and signed by both parties.
2.13	"Cost"	means the actual historical cost, including freight, installation, construction or the appraised value.
2.14	"Council"	means the Council of the Hamlet of Clyde River.
2.15	"Council Approved Budget"	means Council approved budget including authorized revisions.
2.16	"Director"	means the person appointed by the Senior Administration Officer (SAO) to be responsible for the operation of a department and includes the person appointed to the position of SAO.
2.17	"Disposal"	means the removal of material from the Hamlet by sale, lease, grant, donation, trade in, alternative use or destruction.
2.18	"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 that are fully informed and not under any compulsion to transact.
2.19	"FOB"	means Free on Board and is commonly used in pricing to establish the point at which title to purchased materials passes to the owner. FOB is relevant to, for example, responsibility for insurance coverage, taxes, transportation costs and so on.
2.20	"FOB Origin, Freight Collect"	means the buyer owns the goods in transit, bears and pays the freight costs and files any transportation claims.

By-Lav	w Title: Purchasing, Tenderin	g, Contract & Local Incentive By-Law Number: 118
2.21	"FOB Origin, Freight Prepaid"	means the buyer owns the goods in transit and files any transportation claims. The seller pays the freight charges and bears the freight charges.
2.22	"FOB Origin, Freight Prepaid and Charged"	means the buyer owns the goods in transit, bears the freight charges and files any transportation claims. The seller pays the freight charges and invoices the buyer.
2.23	"FOB Destination, Freight Collect"	means the buyer bears and pays the freight charges. The seller owns the goods in transit and files any transportation claims.
2.24	"FOB Destination, Freight Prepaid"	means the seller bears and pays the freight charges, owns the goods in transit and files any transportation claims.
2.25	"Formal Competitive Bid"	means the process whereby an Invitation to Tender or a Request for Proposal is solicited by the Hamlet by means of an invitation to specific suppliers or by advertising. A closing date and time is clearly stated.
2.26	"Goods"	means movable property including:
		 a) the costs of installing, operating, maintaining or manufacturing such movable property; and b) raw materials, products, equipment and other physical objects of every kind and description whether in solid, liquid, gaseous form, unless they are produced as part of a construction contract.
2.27	"Holdback"	means an amount withheld under the terms of the contract to ensure the complete performance of the contract and to avoid overpayment in relation to progress of work.
2.28	"Local"	means within the Municipality.
2.29	"Local Supplier"	means a supplier which has a current Hamlet business license and which owes or leases real property in the Hamlet and which employs or self employs residents of the Hamlet in the course of doing business.
2.30	"Material"	means goods, supplies or items required for maintenance, repair or operating purposes.
2.31	"Obsolete"	means personal property which no longer meets specifications.
2.32	"Professional Services"	means services requiring the skills of professionals for a defined service requirement including:
2.22	"	 a) architects, engineers, designers, management and financial consultants; and b) firms or individuals having specialized competence in environmental, planning or other disciplines.
2.33	"Progress Payment"	means a payment made under the terms of a contract after the performance of the part of the contract in respect of which

By-Lav	w Title: Purchasing, Tenderin	g, Contract & Local Incentive By-Law Number: 118
		payment is made, but before the performance of the whole contract.
2.34	"Proposal"	means a bid, which is submitted in response to a Request for Proposal. A proposal is used when it is generally known what, when and why personal property or a service is required, but not how. A proposal seeks creative input from a supplier and is intended to facilitate both objective and justifiable reasons for choices.
2.35	"Purchase"	means to acquire goods, services or construction by purchase, rental, lease or trade.
2.36	"Purchase Order"	means a written offer to a supplier formally stating all terms and conditions for the purchase of goods, services or construction or a written acceptance of an offer received in accordance with this by-law. It is the use of the Hamlet's preprinted document used to formalize an agreement with a supplier. The Purchase Order has the same effect as a contract.
2.37	"Purchase Requisition"	see "Requisition".
2.38	"Purchasing"	means the act of acquiring goods or services;
2.39	"Quote" or "Quotation"	means a bid submitted in response to a Request for Quotation. The quotation is used to obtain pricing and delivery information from suppliers in an informal manner rather than using an Invitation to Tender or a Request for Proposal. Usually reserved for low value property or a service.
2.40	"Real Property"	means land and buildings and includes fixtures that are permanently attached to buildings and cannot be removed without damaging the building.
2.41	"Requisition"	means the Hamlet's pre-printed document used internally to transmit the needs of a requesting department to Finance in writing. It provides a record of the request, indicates where costs are to be allocated and approves the commitment of funds by allowing for signatures of authorized personnel. The requisition also serves as a reference for generating the Purchase Order or the formal contract.
2.42	"Security Deposit"	means a deposit of securities by a supplier that the Hamlet may convert under defined conditions to complete the supplier's contractual obligation.
2.43	"Sole Source"	means when a source of supply is predetermined to be the only source capable of furnishing the need of performing the service; or the value of the service is less than ten thousand dollars (\$10,000.00) or an emergency situation arises.
2.44	"Special Circumstance"	means:

By-Lav	w Title: Purchasing, Tenderin	g, Contract & Local Incentive	By-Law Number:	118
		a) an event that is exception a threat to the health, safeb) an event that has disrupte be re-established without	ety or welfare of the publed essential services that	ic; or
2.45	"Standing Offer" or "As and When"	means an offer from a sup purchase frequently ordered from suppliers at prearrang conditions.	goods, services or cor	nstruction
2.46	"Supplier"	means a source that is cal furnishing property or provid deemed to include a co professional tradesperson or v	ing a service. A supplie consultant, contractor,	r shall be
2.47	"Supply Management"	means the SAO and his/her st the purchasing services of the	•	erforming
2.48	"Surplus"	means property which is extherefore not required.	ktra to the Hamlet's n	eeds and
2.49	"Tender"	means a bid which is submitt Tender. A Tender is used wh and how property or a service price. Suppliers compete of property or service.	nen it is known what, we is required. The main o	hen, why concern is

The defined words (or any derivative thereof) shall have a plural, masculine, feminine or neutral meaning where the text so requires.

SECTION 3 – APPLICATION

- 3.1 All schedules attached hereto form a part of this by-law.
- 3.2 The procedures prescribed in this by-law shall be followed to make a contract award or to make a recommendation of a contract award to Council.

SECTION 4 – RESPONSIBILITY AND AUTHORITY

- 4.1 Council delegates, to the Hamlet's SAO, the authority to commit or expend funds for the acquisition of property or services as herein outlined from the approved budget of the Hamlet. The SAO may, as permitted within this by-law, by written documentation action only, delegate the commitment or expenditure of funds to the Hamlet Directors. Such delegation will enable staff to initiate expenditures against approved budget for which they are accountable. Council also delegates to the SAO the authority to dispose of surplus or obsolete assets. The SAO may delegate the disposal of assets to other Hamlet staff.
- 4.2 Directors have responsibility for procurement activities within their departments and are accountable for achieving the specific objectives of the procurement project. The authority, and that which is delegated, carries with it the responsibility to ensure that:

- a) the property or service received is that which was contracted for;
- b) the price charged is that which was agreed upon;
- c) all terms and conditions of the contract are fulfilled; and
- d) the commitment or expenditure is a real charge against the activity to which it is coded.
- 4.3 Directors have the authority to award contracts in the circumstances specified in this by-law provided that the delegated power is exercised within the limits prescribed in this by-law, and the requirements of this by-law are met.
- 4.4 Directors, in conjunction with their staff, shall provide evidence that the contract pricing represents fair market value.
- 4.5 The SAO has the authority to instruct Directors not to award contracts and to submit recommendations to Council for approval and may provide additional restrictions concerning procurement where such action is considered necessary and in the best interest of the Hamlet.
- 4.6 In the event of an emergency, the SAO has the authority to expend whatever funds are necessary to deal with the situation. Prior to expending or committing such funds, the Hamlet's SAO shall use his/her best efforts to contact the Mayor or the Deputy Mayor, advise of the nature of the emergency and the amount of funds to be committed or expended and obtain verbal approval. Any such expenditure or commitment shall be reported to Council at the earliest opportunity.
- 4.7 Emergencies generally occur as a result of fire, flood, water breaks or equipment repair. In instances where an emergency occurs after hours and purchased are made by departments, a requisition is to be forwarded to the Finance Department on the next working day following the purchase and shall include an explanation of the circumstances of the emergency.

SECTION 5 – SIGNING AUTHORITY

5.1 To allow for the efficient operational needs of Hamlet departments, signing authority levels per transaction have been delegated to various positions within their program responsibility areas as follows:

Administration

SAO two hundred and fifty thousand dollars (\$250,000.00)

Finance

Director of Finance five thousand dollars (\$5,000.00)

- a) No changes to the assigned level of signing authority can be made unless authorized in writing by the SAO of the Hamlet.
- b) Temporary covering for the next higher level, such as for vacation and other forms of lengthy leaves, signing authority is automatically delegated for the specific period of time, with the exception of the SAO, which authority must come from the Mayor or Council.

SECTION 6 – FUNDING APPROVAL

6.1 The exercise of authority to award a contract is subject to the identification and availability of

sufficient funds in appropriate accounts within the Council approved budget.

- 6.2 Where goods and services are routinely purchased or leased on a multiyear basis, the exercise of authority to award a contract is subject to:
 - a) the identification and availability of sufficient funds in appropriate accounts for the current year within the Council approved budget;
 - b) the requirement for the goods and services will continue to exist in subsequent years and, in the opinion of the Director of Finance, the required funding can reasonably be expected to be made available; and
 - c) the contract has a provision in it that the supply of goods or services in subsequent years is subject to the approval of Council of the departmental estimates to meet the required expenditures.
- 6.3 The SAO shall reject all purchase requests for contracts for which sufficient funds are not available and identified unless, in the opinion of the SAO, the deficiency is minimal and alternate funding has been identified.

SECTION 7 – RESTRICTIONS

- 7.1 No requirement may be divided to avoid the application of the provision of this by-law.
- 7.2 A Director shall not award a contract where supply management has determined that the provisions of this by-law have not been adhered to and has so advised the Director.
- 7.3 The SAO shall:
 - a) reject all purchase requisitions for services where the services could result in the establishment of an employee-employer relationship; and
 - b) with the Director, determine whether the requirement referred to in subsection 7.3 a) can be revised or the requirement should be forwarded to the Human Resources Department for action.

SECTION 8 – PROJECT COSTS

- 8.1 Where this by-law prescribes financial limits on contracts that may be awarded on the authority of the Director, or provides for financial limits on contracts required and to be reported to Council, for the purpose of determining whether a Contract falls within these prescribed limits, the contract amount shall be the sum of:
 - a) all costs to be paid to the supplier under the contract; and
 - b) all applicable taxes
 - c) less any rebates

SECTION 9 – COUNCIL APPROVAL

- 9.1 Despite any other provision of this by-law, the following contracts are subject to Council approval:
 - a) Where the cost amount proposed for acceptance is higher than the Council approved budget and the necessary adjustments cannot be made;

- b) Where the revenue amount proposed for acceptance is lower than the Council approved budget;
- c) Where a substantive objection emanating from the bid solicitation has been filed with the Director or with the SAO;
- d) Where a major irregularity precludes the award of a Tender to the supplier submitting the lowest responsive bid; and
- e) Where authority to approve has not been expressly delegated.

SECTION 10 - PROCUREMENT DOCUMENTATION

- 10.1 In order to maintain consistency, the SAO shall provide instructions to Directors on procurement policies and procedures, and on the structure, format and general content of procurement documentation.
- 10.2 The SAO may review proposed procurement documentation to ensure clarity, reasonableness and quality, and shall advise the Directors of suggested improvements.
- 10.3 Procurement documentation shall avoid use of specific products or brand names where practical.
- 10.4 Notwithstanding subsection 10.3, a Director may specify a specific product or brand name for essential functionality purposes to avoid unacceptable risk or for some other valid purpose. In such instances, the Director and the SAO shall manage the procurement to achieve a competitive situation if possible.
- 10.5 The SAO shall issue and maintain guidelines for the documentation and content of terms of reference and general scope of work.

SECTION 11 – LEGAL SERVICES

11.1 The procurement of legal services is directed and approved by Council.

SECTION 12 – CANCELLATION OF A BID

12.1 A Director may request the SAO to cancel a bid solicitation at any time up to the contract award.

SECTION 13 – PROCUREMENT PROCEDURES

13.1 The following are authorized procedures for the procurement of goods, services and construction contracts.

Procedure	Project Cost
Local Purchase Order	five thousand dollars (\$5,000.00) or less
Credit Card Purchase	twenty-five thousand dollar (\$25,000.00) limit
Request for Quotation	twenty-five thousand dollars (\$25,000.00) or less
Request for Tender	greater than twenty-five thousand dollars (\$25,000.00)
Request for Proposal	greater than twenty-five thousand dollars (\$25,000.00)
Request for Standing Offer (As and When)	not to exceed ten thousand dollars (\$10,000.00) per occurrence
Non-Competitive Purchase	not to exceed ten thousand dollars (\$10,000.00) per occurrence

SECTION 14 – LOCAL PURCHASE ORDERS OF FIVE THOUSAND DOLLARS (\$5,000.00) OR LESS

- 14.1 Purchase for goods or services not exceeding five thousand dollars (\$5,000.00) in value may be made using a Local Purchase Order.
- 14.2 Local Purchase Orders shall be controlled and authorized by the Directors of Hamlet departments.
- 14.3 Employees may use Local Purchase Orders if authorized by the Director of their department.

SECTION 15 – PURCHASES BY CREDIT CARD

- 15.1 The granting of a credit card from the Hamlet's banking institution must be authorized by Hamlet Council.
- 15.2 The credit card will be used for general purchases such as, but not limited to, travel reservations, accommodations, registration fees and purchases made from a foreign country (e.g. United States).
- 15.3 The credit card limit shall not exceed twenty-five thousand dollars (\$25,000.00).
- 15.4 The credit card shall be jointly in the name of the SAO and the Hamlet of Clyde River.
- 15.5 The credit card balance will be reconciled and payment made on a monthly basis by the Director of Finance.
- 15.6 The SAO shall have the use of this card at his/her discretion. Any purchases not solely for Hamlet benefit shall be repaid in full, including any fees or interest. Any balance owing under this section shall be deducted from accrued benefits if the SAO should resign or retire.

SECTION 16 – PURCHASES NOT EXCEEDING TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)

16.1 The procedure used to make purchases exceeding twenty-five thousand dollars (\$25,000.00) shall include evidence that the Director or his/her delegate obtained a minimum of three (3) written quotes. The SAO may be asked to assist in obtaining quotes.

SECTION 17 – REQUEST FOR TENDER: PURCHASES EXCEEDING TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)

- 17.1 The next several sections deal with the tendering process, the various forms of tender documents and related operational procedures. This section explains what the various tender documents are, what they are to be used for, how to use them and operational procedure arising out of the use of these documents.
- 17.2 A Tender is used when the Hamlet knows exactly what good or service it wants and is looking for the best price to deliver it.
- 17.3 Contracts considered under this procedure are to include:
 - a) contracts for the supply of goods;

- b) construction contracts; and
- c) leases.

SECTION 18 – TENDERING PROCESS

- 18.1 The tendering process begins when the documents describing the work (plans and specifications) or requisitions for goods and services have been received or prepared. The terms 'tender' and 'bid' are often used interchangeably and may occasionally be referred to as 'price', 'quotation' or 'submission'.
- 18.2 The tender call is the first stage of the tendering process and includes all activities from the preparation of the tender documents up to the receipt of tenders from contractors/suppliers. The principal steps are as follows:
 - a) Approval to tender;
 - b) Preparation of the tender documents;
 - c) Tender advertisement; and
 - d) Modifying or clarifying the tender.

SECTION 19 – INVITATIONAL TENDERS

- 19.1 The time required to obtain tenders with invitational tenders is generally shorter than that required for publicly advertised tenders.
- 19.2 Since there are no advertising restrictions, the time allowed for submitting tenders should be reasonable and sufficient to ensure reasonable bid response. Some factors to consider include:
 - a) the marketplace;
 - b) availability of suppliers or contractors;
 - c) locations of business or firms willing to tender; and
 - d) use of facsimile or sealed bids.
- 19.3 As a general rule, the minimum time to be allowed for invitational tendering is one (1) week. This is acceptable in the case of simple, well-defined goods where there is a clearly identified supplier base capable of supplying the goods.
- 19.4 On the other hand, the maximum time to be allowed for tender is judgmental and depends on what reasonable time is required to enable prospective tenders to properly prepare and submit a tender.
- 19.5 Tenders should be accepted only at the Hamlet Office.

SECTION 20 – BID AND CONTRACT SECURITY

- 20.1 A Bid Bond or Security of not less than ten percent (10%) of the bid submission should be included if the contract price will be greater than five hundred thousand dollars (\$500,000).
- 20.2 For construction tenders, a Plan Holder's Log or Tender Log must be maintained. Contract documents sets should be numbered sequentially and referenced in the log as copies are

requested by any person or company.

- 20.3 The Plan Holder's Log is public information and is available to the public at any time prior to or after tender closing.
- 20.4 Immediately prior to tender closing, caution should be exercised if no general contractors or only one general contractor has picked up documents. If an interested bidder knows this information, that bidder will be aware that there is no competition. In this case, the log should still remain public, but the contract coordinator should make a note of the circumstances. Following closure of the tenders, a review should be conducted to determine whether the bid, in fact, represented competitive bidding.
- 20.5 The information contained in the Plan Holder's Log (bidder's name and address) may be provided over the telephone or by facsimile to the person requesting the information.
- 20.6 The Director and the SAO must take extreme care so that incorrect or misleading information is not provided during the tender process.

SECTION 21 – FACSIMILE TENDERING

- 21.1 The receipt of tenders by facsimile transmission is acceptable subject to the following:
 - a) If the contract value is less than twenty-five thousand dollars (\$25,000), approval by the Director or his delegate must be obtained; and
 - b) Adjustments to bids by facsimile will be permitted prior to the closing deadline.

SECTION 22 – DETERMINATION OF FOB POINTS

- 22.1 FOB points and freight cost responsibilities must be determined in each instance by using sound judgment based on procurement principles and policy. The Contracting Authority is responsible for ensuring that the best value is obtained for the Hamlet.
- 22.2 It should be recognized that specifying FOB destination in contracts provides the benefit of mitigating the risks of damage and loss of goods in transit to the Hamlet.

SECTION 23 – TRANSLATION OF ADVERTISEMENTS

23.1 Advertisements will be published in both English and Inuktitut.

SECTION 24 – PUBLIC NOTICE OF ADVERTISED TENDERS

24.1 Public notices of advertised tenders may be posted on bulletin boards throughout the Hamlet.

SECTION 25 – MODIFYING TENDER INFORMATION

- 25.1 This section deals with amending tenders or clarifying the information contained within tenders prior to the closing date and time.
- 25.2 To ensure that all contractors are eligible to bid on the same tender package, addenda must be used to ensure that all bidders receive written notification of changes or clarifications made

during the tender call period.

25.3 The addendum should only deal with issues that have a major impact on the job. Minor items that will not have a significant impact on the cost or schedule may be dealt with by way of change orders. The use of excess addenda will decrease competition and increase costs.

SECTION 26 – TENDER OPENING

- 26.1 All publicly advertised tenders over twenty-five thousand dollars (\$25,000) in value should be opened in public. To ensure the tendering process is open and fair to all bidders, the Hamlet allows the public to attend all tender openings, including those tendered by invitation list. Tenders should be opened as soon as possible after the tender closing time.
- 26.2 An official clock should be designated as the clock to be used for tender closures.
- 26.3 The date and time received is to be recorded on each tender and tender amendment upon receipt.
- 26.4 A Tender Opening Committee will open tenders. At least two (2) Hamlet employees will be present for a tender opening. The Chairperson should announce that all tenders received are subject to audit and review prior to any recommendation for award, and that no questions concerning tenders will be answered during the opening. The Committee then records all bids received on time on a tender register for each request for tenders. Bids are not reviewed at the tender opening.
- 26.5 Upon opening each envelope (for sealed tenders), and for tenders received by facsimile, the Chairperson must announce only:
 - a) the name of the person or company who submitted the tender;
 - b) if applicable, whether or not bid security is provided;
 - c) the amount of the tender (the total only);
 - d) any amendments to the tender price; and
 - e) the final tender price, which is the tendered price plus or minus any amendments [if amendments were received, two (2) Committee members calculate the final contract price].
- 26.6 After each announcement, the Secretary records:
 - a) the correct name of the bidder from the tender form (may differ from envelope);
 - b) if applicable, the type of security provided: bid bond, certified cheque, etc.; and
 - c) the amount of each bid, the amendment amounts and the final contract price.
- 26.7 Each Committee member initials the bid page where the price is indicated and signs the tender register.
- 26.8 If no bids are received it is written in the tender register which is then signed by the Committee.

26.9 After the tender opening, the tender register information is available to the public.

SECTION 27 – REQUESTS FOR PROPOSALS

27.1 <u>Determining the Procedure to Use</u>

When deciding whether to use an Request for Proposal (RFP) or a Request for Tender (RFT), the Director or SAO will consider the following:

- a) Use an RFT if it is known what you want done (and how it should be done):
 - i. If the good or service is clearly defined; or
 - ii. If there is a detailed methodology, procedure or material and performance specification.
- b) Use an RFP if you know what you want done but you do not know how it should be done:
 - If the good or service is not clearly defined;
 - ii. If there is no detailed material or performance specification;
 - iii. If you are looking for a general solution to a problem; or
 - iv. If the proposers' solutions are expected to be quite varied and/or difficult to evaluate.

27.2 What to Include in the Request for Proposal

- a) An RFP for the provision of any type of good or service must include information in the following three (3) areas:
 - i. Instructions to Proposers;
 - ii. Terms of Reference; and
 - iii. Evaluation Criteria.

27.3 <u>Instructions to Proposers</u>

- a) The 'Instructions to Proposers' section of an RFP should include information and instructions on the administrative parameters of the proposal call.
- b) It should also include instruction about information that proposers should include in their submissions.

27.4 Terms of Reference

The 'Terms of Reference' section of the RFP should describe the details of the problem or project and the level of service expected to be delivered by the proposer. It is important to include as many pertinent details about the problem and scope of work as are available at the time of the proposal call. RFPs that do not have well-defined terms of reference will most likely result in large variations in the methodology and fees presented in the proposals received, and thus will be more difficult to analyse and compare. The 'Terms of Reference' should typically include the areas described below.

27.5 Project Description of Scope of Work

A detailed description of the scope should be included. This would adequately define and quantify the limits of the project.

27.6 Schedule

A schedule for the consultant's work with as much detail as possible should be included with the proposal call. Critical milestone dates that must be met should be specifically brought to the attention of the proposers (i.e. preliminary report dates, final report dates, etc.).

27.7 <u>Mandatory Requirements/Minimum Standards</u>

- a) Mandatory requirements or minimum standards must be established in the proposal call if they are to be used as evaluation criteria.
- b) There may be criteria in the RFP with which the proposer must comply. These criteria may be mandatory requirements or minimum standards. If so, the Hamlet will state this fact in the RFP. The Hamlet will further sate that, if the proposer is unable to meet these criteria, the proposal submission shall be disqualified.
- c) Any mandatory requirement or minimum standard must be included in the proposal call if it is to be used during evaluation.
- d) Since a proposal should be disqualified if it fails to meet any mandatory requirement or minimum standards, it is important that the proposal not include minimum standards if they are not, in fact, intended to be mandatory.

27.8 Reports, Submissions and Reviews

The Hamlet should detail the requirements for progress and final reports or submissions in the proposal. This should consist of a list indicating the stages at which submissions will be required, the detail to be achieved at each stage and the number of submission copies required. The Hamlet should note approval and acceptance requirements relating to performance of each stage.

27.9 Cost (Fees and Disbursements)

The Director and SAO should instruct all proposers to completely break down how the cost of the service will be determined. This may include hourly or per diem rates for all personnel and equipment, any additional work and a detailed estimate of expense disbursements if they will be payable under the contract. Specific criteria for the establishment of fees or the timing of payments should be stated in the RFP.

27.10 Recommended Evaluation Criteria

- a) The RFP must outline the rating method that will be used to evaluate the proposals. The standard method for evaluating proposals will include a weighted evaluation of the following criteria:
 - 1. Project Team
 - 2. Methodology
 - 3. Related Experience of Company
 - 4. Project Schedule
 - 5. Training
 - 6. Fees and Expenses
 - 7. Inuit, Local and Nunavut Content

b) To provide a proposal that effectively prioritizes the Hamlet's needs, the weightings of the criteria to be used for evaluation should normally be listed in the RFP. However, there may be occasions where the nature of the proposal is such that the weighting criteria should not be disclosed. These situations should be discussed with the appropriate Director.

27.11 Restrictions

- a) To clearly establish that a proposal is intended to be a proposal; not to be confused with a tender, the words 'tender' or 'bid' should not be used at all in the proposal documents.
- b) Since a proposal is one proposer's unique solution to a need or problem, the terms of a proposal cannot be absolutely set out in the proposal call. Usually, some level of further negotiation will need to take place before the final terms of the contract are agreed upon. Ultimately, anyone of the various proposers may not be able or willing to contract on the terms eventually developed. Therefore, RFPs shall not include the requirement for bid security nor shall they require proposals to be irrevocable for any period of time.

27.12 Who to Invite on a Request for Proposal

The next few sections outline who should be invited to submit proposals and how different types of proposals are to be distributed. They cover calling competitive proposals through public advertising, short list invitation and sole source selection using proposals.

27.13 Competitive Selection

- a) To ensure a competitive selection process, proposals should be advertised or invited from at least three (3) interested and capable firms.
- b) For consulting contracts, usually no more than three (3) or four (4) firms should be invited since both the preparation and evaluation of proposals can require a substantial amount of time and money relative to the value of the work.
- c) For goods or general services contracts, the RFPs should be publicly advertised, or all appropriate Nunavut contractors should be invited to propose. Many should be advertised, particularly if there are service requirements where many firms are capable of performing the work.

SECTION 28 - RFP PURCHASES EXCEEDING TWENTY-FIVE THOUSAND DOLLARS (\$25,000)

- 28.1 A Request for Proposal (RFP) should be used where one or more of the criteria for issuing a Request for Tender (RFT) 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.
 - b) It is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement.
- 28.2 The Director shall provide the SAO with a purchase requisition, terms of reference and evaluation criteria including the scoring assessment to be applied in assessing the proposals submitted.

- 28.3 The Director and SAO may jointly select a supplier to provide professional services without competition where:
 - a) the estimated total cost does not exceed twenty-five thousand dollars (\$25,000); and
 - b) the cost of preparing a detailed proposal would deter suppliers from submitting proposals.
- 28.4 The SAO shall issue an RFP in the same manner as for an RFT as set out in this by-law, excluding the requirement for a public opening, if the estimated value is less than twenty-five thousand dollars (\$25,000).
- 28.5 Where the requirement is not straightforward, or an excessive workload would be required to evaluate proposals, either due to their complexity, length, number or any combination thereof, a multi-step procedure may be used that would include a pre-qualification stage to ensure the workload is at a manageable level.
- 28.6 A selection committee, composed of a minimum of one Director/Manager from the department and the SAO, shall review all proposals against the established criteria and reach consensus on the final rating results and ensure that the final rating results with supporting documents are kept on the procurement file.
- 28.7 The SAO shall forward to the Director a summary of the procurement and recommendation for award of contract to the supplier meeting all mandatory requirement and providing best value as stipulated in the RFP.
- 28.8 The SAO and the department Director may recommend a contract within the limits of the signing authority established within this by-law or emanating from an RFP provide that:
 - a) sufficient funds are available and identified in appropriate accounts within Councilapproved departmental budgets including authorization provisions;
 - b) the award is made to the supplier meeting all mandatory requirements and providing best value as stipulated in the RFP;
 - c) supply management is in receipt of a funded requisition; and
 - d) the provisions of this by-law are followed.
- 28.9 Awards emanating from an RFP require the SAO's approval as per the signing authority established under this by-law.
- 28.10 RFPs must be signed by the department Director and/or delegate and the SAO.

SECTION 29 – UNSOLICITED PROPOSALS

29.1 Unsolicited proposals will be accepted by the Hamlet of Clyde River.

SECTION 30 - NON-BUDGETARY CONTRACT APPROPRIATIONS

30.1 Where a requirement exists to initiate a project for which goods, services or construction are required, and funds are not contained in appropriate accounts within the Council-approved budget to meet the proposed expenditure, the SAO shall, prior to the 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; and
- c) information on the availability of the funds within the existing budget which were originally approved by Council for other purposes or on the requirement for additional funds.

SECTION 31 – CO-OPERATIVE PURCHASING

- 31.1 The Hamlet may participate with other government agencies or public authorities in cooperative purchasing where it is in the best interest of the Hamlet to do so.
- 31.2 The policies of the government agencies or public authorities calling the co-operative tender are to be the accepted policy for that particular tender.

SECTION 32 – RECEIPT OF GOODS

- 32.1 The Director shall:
 - a) arrange for the prompt inspection of goods on receipt to confirm conformance with the terms of the contract; and
 - b) inform the SAO of discrepancies immediately.
- 32.2 The SAO shall coordinate an appropriate course of action with the Director for any non-performance or discrepancies.

SECTION 33 – PURCHASING FROM EMPLOYEES

- 33.1 Direct purchase from employees or an employee's immediate family of any material, service or equipment is not permitted unless specific exemption has been obtained from the SAO.
- 33.2 Direct purchases from Councillors must not contravene the *Conflict of Interest Act*.

SECTION 34 – LOCAL PREFERENCES POLICY

- 34.1 Business will be conducted with local suppliers that are reliable and competent and have the technical and financial capabilities to provide the required property and service.
- 34.2 The Hamlet's priority will be to do business with:
 - a) Clyde River based suppliers to the extent that qualified one are available;
 - b) other Nunavut based suppliers to the extent that qualified ones are available; and
 - c) other provinces and territories of Canada to the extent that qualified ones are available.

SECTION 35 – EFFECTIVE DATE

35.1 This by-law shall come into effect on the third (3rd) and final reading.

By-Law Title:	Purchasing, Tendering, Contract & Local Incentive	By-Law Number:	118

Date of First Reading	(Day)	?	(Month)	?	(Year)	2012
Date of Second Reading	(Day)	?	(Month)	?	(Year)	2012
Mayor			Senior	Administı	ative Officer	
Mayor Date of Third Reading and Passed	(Day)	?	Senior (Month)	Administr ?	(Year)	2012
·	(Day)	?				
·	(Day)	?				