THE CORPORATION OF THE TOWN OF MARATHON
****

BY-LAW NO. 1400

Being a by-law to establish procedures for the procurement of goods and services and for the disposal of surplus goods for the Town of Marathon.

WHEREAS Section 271 of the Municipal Act, S.O., 2001 states a municipality shall adopt policies with respect to its procurement of goods and services;

AND WHEREAS the Council of The Corporation of the Town of Marathon deems it necessary to have written procedures in place relating to the procurement of goods and services;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARATHON ENACTS AS FOLLOWS:

1. **DEFINITIONS (in this by-law):**

a) "acquisition" means the process by which goods or services are procured;

b) "agreement" means a legal document that binds The Corporation of the Town of Marathon and all other parties, subject to the provisions of the contract;

c) "annual aggregate value" means the total amount anticipated to be spent annually by all departments on a particular type of goods or services;

d) "approval" means authorization to proceed with the purchase or disposal of goods and/or services;

e) "bid" means an offer or submission received from a vendor, contractors or consultant in response to a request, which offer or submission may be subject to acceptance or rejection;

f) "bid irregularity" means a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid requirement and the information provided in the bid response (see Appendix "B");

g) "bid request" means a formal request for bids or a solicitation, which may be in the form of a request for quotation, request for tender or request for proposal;

h) "blanket purchase order" means a purchase order which establishes prices or a method for determining prices, terms and conditions and the period of time during which a vendor agrees to provide goods and services to the purchaser upon the purchaser's demand;

i) "CAO" means the Chief Administrative Officer for The Corporation of the Town of Marathon;

j) "Clerk" means the Clerk of The Town of Marathon;

k) "competitive method" means an acquisition method where vendors are given an equal opportunity to submit bids in accordance with Town Policy and Procedures;

l) "contract" means a legally binding agreement between two or more parties. Such agreements will consist in the form of a:

a) purchase order; or
b) purchase order incorporating a formal agreement, or
c) formal agreement between two or more parties that creates an

obligation to provide defined goods and/or perform defined services.

m) "conflict of interest" refers to a situation in which private interests or personal considerations may affect an employee's judgement in acting in the best interest of the Town. It includes using an employee's position, confidential information or corporate time, material, or facilities for private gain or advancement or the expectation of private gain or advancement. A conflict may occur when an interest benefits any member of the employee's family, friends, or business associates;

n) "Corporate Signing Officers" means the Mayor and Clerk, or their designates;

o) "Council" means the Council of the Town of Marathon;

p) "Department Manager" means the Manager of any Town department or designate;

q) "disposal" means the removal of materials owned by the Town by sale, trade-in, auction, alternative use, gift, or destruction which are deemed surplus;

r) "emergency" means a situation where the immediate acquisition of goods or services is essential to prevent serious delays, injury, damage or to restore or maintain required service;

s) "emergency method" means a procurement process where the usual competitive acquisition rules are suspended due to the prevailing emergency circumstances;

t) "expression of interest" means a situation where vendors are solicited by the Town to advise the Town of their ability or desire to undertake Town requirements;

u) "goods and/or services" includes labour, supplies, materials, equipment and services of every kind not otherwise provided for in Appendix "A";

v) "lowest responsive bid" means the lowest price submitted which meets the requirements and specifications as set out in the bid request, minor deviations excepted;

w) "negotiation method" means an acquisition method whereby the Town may confer with one or more vendors leading to an agreement on needed goods and services under the conditions outlined in this Policy;

x) "privilege clause" means the standard clause used in bid documents and advertising that reads in part "the lowest or any tender not necessarily accepted";

y) "procure/procurement/purchase" means to acquire by purchase, rental, lease or trade;

z) "Professional and Consulting Services" includes architects, auditors, engineers, designers, planners, surveyors, management and financial consultants, brokers, legal services and any other professional and consulting services rendered on behalf of the Town;

aa) "Proposal (Request for Proposal/RFP)" means an offer to provide goods or services to the Town, where it is not practical to prepare precise specifications, or where "alternatives" to detailed specifications will be considered, which may be subject to further negotiation. This process allows vendors to propose solutions to arrive at the end product, and allows for evaluation on criteria other than price;

bb) "purchase order" means a written offer to procure goods and services or a written acceptance of an offer to acquire goods and services made on the Town's form;

cc) "quotation (Request for Quotation/RFQ)" means an offer to sell goods and services to the Town or an offer to purchase surplus goods from the Town;

dd) "request for information" means a written request for details on a vendor's background and the goods and services being offered. Such information shall be used to pre-qualify vendors to be invited to submit bids;

ee) "sole source" means there is only one source of supply of particular goods and services;

ff) "single source" means there is more than one source in the open market but only one of these is recommended for consideration in a contract;

gg) "total project cost" means the sum of all costs that would normally be paid to one vendor for goods or services required to meet a major objective over a period of time;

hh) "Town" means The Corporation of the Town of Marathon;

2. PURCHASING PRINCIPLES

The Town's purchasing principles are as follows:

a) to procure by purchase, rental or lease the required quality and quantity of goods and/or services, including professional and consulting services in an efficient, timely and cost effective manner;

b) to encourage open competitive bidding for the acquisition and disposal of goods and services where practicable;

c) to consider the total cost of the acquisition, repair, staff training, operation and disposal rather than only the lowest invoice price;

d) to give full consideration to the total project cost and/or to the annual aggregate value of specific goods or services prior to determining the appropriate acquisition method;

e) to procure necessary goods and services with due regard to the preservation of the natural environment, to encourage vendors to supply goods made by a method resulting in the least damage to the environment and to encourage vendors to supply goods incorporating recycled materials where practicable;

f) to ensure that health and safety guidelines (JHS0002 & JSH0015) are followed by employees and contractors;

g) in deciding to purchase goods or services through the procurement process for the use of its self, its employees or the public, the Council of every municipality shall have regard to the accessibility for persons with disabilities to the goods or services;

h) this by-law will be reviewed every five (5) years or earlier, to evaluate its effectiveness.

3. RESPONSIBILITIES AND AUTHORITIES

a) The Department Manager has responsibility for procurement activities within their departments and is accountable for determining and achieving specific objectives as outlined for each procurement project. The Manager of each department shall:

i) exercise general supervision and control over the procurement of

all goods and services in accordance with this Policy;

iii) direct negotiations for the purpose of co-operative buying procedures with other municipal bodies and agencies as may be deemed advantageous to the Town, as directed by the CAO.

b) All acquisitions made by the Town shall be carried out in accordance with Town policy, other by-laws and principles established from time to time.

c) All acquisitions shall be in accordance with approved department budgets and estimates except where Council, by by-law or resolution, otherwise determines.

d) The Town shall be under no obligation to accept the lowest bid or any bid received in response to a verbal or written request.

e) The Department Manager may remove a vendor's name from consideration from contracts under this Policy on the basis of poor performance or non-performance on a Town contract.

4. METHODS OF ACQUISITION

a) Competitive Pricing:

Notwithstanding any other provisions of this Policy, the acquisition of the items listed in Appendix "A" shall not require a purchase order unless requested by the requisitioner.

i) Up to $500.00

The acquisition of goods and services having a value of $500.00 or less which are not covered by a blanket purchase order shall be carried out by the Department Manager in accordance with the principles set out in this Policy and such other applicable policies and procedures established from time to time. No purchase order is required for these types of acquisitions.

ii) $500.00 to $1,000.00

Goods and services with a value of at least $500.00 and less than $1,000.00, may be purchased as deemed by the Department Manager to be the most economically feasible and beneficial method to the Town, in accordance with the principles set out in this Policy. A purchase order is required for these types of acquisitions.

iii) $1,000.00 to $10,000.00

For the acquisition of goods and services with an estimated value of at least $1,000.00 and less than $10,000.00, at least three written bids shall be solicited by the Department Manager. A purchase order is required for these types of acquisitions.

iv) $10,000.00 and OVER

For the acquisition of goods and services with an estimated value of at least $10,000.00 or more, the Department Manager shall:

a) advertise the bid request in one or more publications of general circulation;
b) receive written bids up to the published deadline;
c) attend the public opening of bids at the appointed time by a committee comprised of at least two members: one from the Clerk's office and the Department Manager. The Clerk shall keep a written record of all bids received.

The Department Manager may compile a list of qualified bidders when:

i) a large number of bids is anticipated and the evaluation of bids would create an undue cost burden to the Town; or

ii) it is desirable to pre-qualify bidders according to established criteria prior to bidding;

PROVIDED THAT:

iii) potential bidders be invited by the Department Manager to reply to a Request for Information advertised in a publication of general circulation.

b) Negotiation Method

Notwithstanding any other provisions of this Policy, the requisitioning Department Manager may enter into negotiations with one or more vendors for the supply of goods or services when any of the following conditions exist:

i) due to market conditions, goods and services are in short supply;

ii) there is only one source of the subject goods or services;

iii) two or more identical acceptable low bids have been received;

iv) efforts at breaking identical bids have previously been unsuccessful and the same goods or services are required again;

v) all acceptable bids exceed the amount budgeted for the goods and services;

vi) all bids received are not acceptable;

vii) the extension or reinstatement of an existing contract would be more cost effective or beneficial to the Town;

viii) a single source is being recommended because it is more cost-effective or beneficial;

ix) when goods are required for resale and the determining criteria is marketability and profitability or when costs are recovered through customer/consumer preference;

x) when authorized by Council or the CAO.

Where the negotiated method is used to select a vendor of goods or services, except professional and consulting services, with a value of at least $10,000.00 or where the extension of an existing contract exceeds twenty percent (20%) of the original contract value, the Department Manager shall submit a report to Council prior to the awarding of the contract, setting out the circumstances for recommending the award.

c) Professional and Consulting Services

i) Up to $10,000.00

Notwithstanding any other provisions of this Policy, the Department Manager may utilize the negotiation method to acquire professional or consulting services with an estimated value of less than $10,000.00.

ii) $10,000.00 and OVER

Where the negotiating method is recommended to select a vendor(s) of Professional Consulting Services with an estimated value of at least $10,000.00 and less than $25,000.00, the Department Manager shall submit a report to Council setting out the circumstances for recommending the award.

d) Emergency Method

Notwithstanding any other provision of this Policy, where an emergency exists:

i) the Department Manager is authorized to obtain necessary goods or services with a value of less than $5,000.00 by the most expedient, economical and practicable means in the circumstances;

ii) the Department Manager is authorized to obtain necessary goods or services having an estimated value of at least $5,000.00 and less than $10,000.00 by the most expedient, economical and practicable means in the circumstances, provided that the Department Manager submits a report to Council at its next meeting explaining the circumstances giving rise to the emergency;

iii) which requires the expenditure of $10,000.00 or more, the Department Manager shall obtain the approval of the CAO prior to obtaining the necessary goods or services by the most expedient, economical and practicable means in the circumstances, provided that the Department Manager submit a report to Council at its next meeting explaining the circumstances giving rise to the emergency.

5. EXCEPTIONS TO METHODS OF ACQUISITION

a) Volatile Market Conditions

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

b) Sole Source Procurement

Purchase by negotiation may be adopted, if in the judgement of the Department Manager any of the following conditions apply:

i) goods and services are in short supply due to market conditions

ii) the sources of supply are restricted to the extent that there is not effective price competition, or consideration of substitutes is precluded due to any of the following:

a) components or replacement parts for which there is no substitute
b) compatibility with an existing product, facility or service is required
c) specific standards are adopted by Council

iii) there is documented evidence that the extension or reinstatement of an existing contract would prove most cost effective or beneficial (to a maximum of 10% of the original contract)

iv) work is required at a location where a contractor has already been secured through a tender process, with established unit prices by another party and it is considered to be beneficial and cost effective

to extend the unit prices for the work to be completed for the Town of Marathon

v) after the RFP process has closed, it may be necessary for discussion to clarify and/or make significant revision(s) to the initially defined requirements of the call for quotations/proposals

vi) when only one bid/proposal is received through the procurement process and it is impractical to recall the requirements of the call for quotations/proposal

c) Co-operative or Joint Ventures

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

6. **REPORTS TO COUNCIL**

a) In addition to other reporting requirements set out in this Policy, a report shall be submitted to Council by the Department Manager prior to an expenditure when:

i) the acquisition has a value of $100,000.00 or more;

ii) the acquisition has a value of at least $25,000.00 and the lowest acceptable bid is not being recommended; or

iii) it is recommended that a form of commitment other than a standard form contract be used.

7. **DISPOSAL OF SURPLUS GOODS**

a) On an annual basis, all Department Managers shall identify goods which become surplus to their needs and submit such lists to the CAO for disposal in the Town's Annual Garage Sale.

b) The method of disposal used on a particular surplus item will be that which results in the best overall benefit to the Town, such as:

i) scrap, dismantle or destroy, classify as waste and dispose;

ii) transfer to another department for use within the Town;

iii) donate to another non-profit/charitable organization;

iv) trade-in, return to supplier for credit;

v) invite public or selective quotations;

vi) garage sale.

c) Any Town vehicles or equipment that have been declared surplus will be sold at a silent auction during the Town's Annual Garage Sale

8. **PROHIBITIONS**

a) The following activities are prohibited:

i) the division of contracts to avoid the requirements of this Policy;

ii) purchase by the Town of any goods or services for personal use by or on behalf of any Town employee or elected official for purposes other than the bonafide requirements of the Town;

iii) the bid for or purchase of any surplus goods directly or indirectly by or for a Town employee or a member of an employee's family (family is parent, spouse, child, all as defined in the Municipal Conflict of Interest Act);

9. **INTERNAL POLICY ONLY**

a) This Policy is enacted solely as an internal policy of the Town and the provisions hereof do not confer any rights of any kind whatsoever on any other person including, but not limited to, persons supplying or seeking to supply or asserting claims with respect to the supply of goods or services to the Town, whether or not the Town, its Council, officers, agents, or employees have acted in accordance herewith.

10. This by-law shall come into force and take effect on the final day of passing.

READ A FIRST AND SECOND TIME THIS 26TH DAY OF JULY, A.D., 2004.

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…

Mayor

(SEAL)

.....……

Clerk

READ A THIRD TIME AND FINALLY PASSED THIS 26TH DAY OF JULY, A.D., 2004.

.....……

…

Mayor

(SEAL)

.....……

Clerk

Subject to all applicable Town policies and procedures, a purchase order is not required for the following items unless requested by the requisitioner:

1. **All Petty Cash Items**

2. **Training and Education**
   a) Conference
   b) Courses
   c) Conventions
   d) Memberships
   e) Seminars
   f) Periodicals
   g) Magazines
   h) Staff Training
   i) Staff Development
   j) Staff Workshops
   k) Subscriptions

3. **Refundable Employee Expenses**
   a) Advances
   b) Meal Allowances
   c) Travel Expenses
   d) Entertainment
   e) Miscellaneous – non-travel
   f) Hotel Accommodation

4. **Employer's General Expenses**
   a) Payroll Deduction Remittances
   b) Group Health Benefit Premiums
   c) Pension Contributions
   d) Licenses (vehicles, radios, etc.)
   e) Debenture Payments
   f) Grants to Agencies
   g) Petty Cash Replenishment
   h) Tax Remittances
   i) Charges to or from other government bodies or Crown Corporations
   j) Employee Income
   k) Senior Management Vehicles and Maintenance
   l) Real Property including Land, Buildings, Easements, Encroachments and Licenses
   m) Bank Charges and Underwriting Services where covered by Agreements

5. **Professional and Special Services**
   a) Committee Fees
   b) Witness Fees
   c) Honoraria
   d) Arbitrators
   e) Appraisers
   f) Legal Settlements

6. **Utilities**
   a) Postage
   b) Water and Sewage Charges
   c) Hydro
   d) Gas
   e) Telephone Service Charges

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 the bid response.

For the purpose of this by-law, bid irregularities are further classified as “major irregularities” or “minor irregularities”.

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

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

Mathematical Errors – Rectified by Staff

The Department Manager can correct errors in mathematical extensions and/or taxes, and the unit prices will govern.

Action Taken

The Department Manager, CAO and Town Solicitor will be responsible for all action taken in dealing with bid irregularities, and acts in accordance with the nature of the irregularity:

- ✓ Major irregularity (automatic rejection)
- ✓ Minor irregularity (bidder may rectify – only before bid/proposal is opened)
- ✓ Mathematical error (additions or extensions) as above

In the event that the vendor withdraws his bid due to the identification of a major irregularity, the Town may disqualify such vendor from participating in Town quotations/tenders/requests for proposals for a period of up to one year.

Appendix B of By-Law No. 1400

Bid Irregularities – Summary

Item	Description	Major	Minor	Action
1.	Late bids (by any amount of time)	X		Automatic rejection
2.	Bids completed in pencil	X		Automatic rejection
3.	Bid surety not submitted with the bid when the bid request (or any addenda) indicated that such surety is required	X		Automatic rejection
4.	EXECUTION OF AGREEMENT TO BOND: a) bond company corporate seal or equivalent proof of authority to bind company or signature is missing; or, b) surety company not licensed to do business in Ontario	X		Automatic rejection
5.	EXECUTION OF BID BONDS: a) corporate seal or equivalent proof of authority to bind company or signature of the BIDDER or both missing; or, b) corporate seal or equivalent proof of authority to bind company or signature of BONDING COMPANY missing	X		Automatic rejection
6.	OTHER BID SECURITY: Cheque which has not been certified	X		Automatic rejection
7.	Bidders not attending mandatory site meeting	X		Automatic rejection
8.	Unsealed tender envelopes	X		Automatic rejection
9.	Proper response envelope or label not used		X	Acceptable if officially received on time
10.	Pricing or signature pages missing	X		Automatic rejection
11.	Insufficient financial security (ie: no deposit or bid bond or insufficient deposit)	X or	X	Where security is required & amount is not specified in request, automatic rejection unless insufficiency is trivial or insignificant – where security is required and amount of security is specified in request, automatic rejection
12.	Bid received on documents other than those provided in request	X		Automatic rejection unless specified otherwise in the request
13.	EXECUTION OF BID DOCUMENT: Proof of authority to bind is missing	X		Automatic rejection
14.	Part bids (all items not bid)	X or	X	Acceptable unless complete bid has been specified in the request
15.	Bids containing minor clerical errors		X	2 working days to correct initial errors. Town reserves the right to waive initialling and accept bid
16.	Uninitialled changes to the request documents which are minor (ie: the bidder's address is amended by overwriting but not initialled)		X	2 working days to correct initial errors. Town reserves the right to waive initialling and accept bid
17.	Alternate items bid in whole or in part		X	Available for further consideration unless specified otherwise in request
18.	Unit prices in the schedule of prices have been changed but not initialled		X	2 working days to correct initial errors. Town reserves the right to waive initialling and accept bid
19.	Other mathematical errors which are not consistent with the unit prices		X	2 working days to initial corrections. Unit prices will govern.
20.	Pages requiring completion of information by vendor are missing	X		Automatic rejection
21.	Bid documents which suggest that the bidder has made a major mistake in calculations or bid			Consultation with a Solicitor on a case-by-case basis and referenced within the staff report if applicable

Note: The above list of irregularities should not be considered all-inclusive. The Department Manager in consultation with the CAO will review minor irregularities not listed. The Department Manager may then accept the bid, or request that the bidder rectify the deviation.

Appendix C to By-Law No. 1400

Tenders Process

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

The Department Manager will send a draft advertisement and tender documents to the CAO for review, providing the following information:

- ✓ Dollar value
- ✓ Account number and Council authority
- ✓ Description of work
- ✓ Closing date

The Department Manager will advertise and distribute tenders and book a suitable room for the tender opening:

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

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

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

All tender submissions must be addressed to the Municipal Clerk. Town Office Reception will receive all tender submissions and issue a date and time stamped receipt.

The Municipal Clerk will refuse to accept any tender submission that is:

- ✓ Not sealed
- ✓ Received after the closing deadline
- ✓ Submitted after a tender has been cancelled

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

Tenders close on the appointed day and are opened publicly at 2:00 p.m. (unless otherwise specified in the tender documents). Each tender is reviewed to determine whether a bid irregularity exists, and action is taken according to the nature of the irregularity (see Appendix "B").

A report initiated by the issuing Department Manager and reviewed by the CAO shall be prepared for Council consideration and approval.

Following Council’s approval, the Department Manager shall either supply a purchase order or coordinate with the Municipal Clerk to ensure that a contract which legally binds the corporation is executed by the Mayor and Municipal Clerk.

Tender results, if requested, shall be made public by the Department Manager or

Clerk.

Request for Proposal (RFP) Process

RFP's may be called instead of tenders, by way of public advertising or invitational bid, as outlined in the Town's Purchasing Policy:

- ✓ When requirements or services cannot be definitively specified, or
- ✓ When the requirements or services are non-standard or specialized in nature, or
- ✓ The cost is only a minor component making up the award.

The Department Manager will initiate the RFP process by preparing documents, with input and assistance from the CAO if required.

All public RFP's are advertised on the Town of Marathon website. Additionally, at the discretion of the Department Manager, RFP's may be advertised in a local, regional and/or construction newspaper (2 days lead time required). Advertisements must include the following information (if applicable): site meeting time/day/location, contact names for technical and purchasing inquiries, document fee (if applicable) and location for pick up and drop off of bid documents.

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

All RFP's must be addressed to the Municipal Clerk. Town Office Reception will receive all tender submissions and issue a date and time stamped receipt.

The Municipal Clerk will refuse to accept any tender submission that is:

- ✓ Not sealed
- ✓ Received after the closing deadline
- ✓ Submitted after an RFP has been cancelled

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

Proposals shall be opened at 12:00 noon on the appointed day for registration of bids or at such time as may be set out in the RFP. Only names of bidders will be made public.

A report initiated by the issuing Department Manager and reviewed by the CAO shall be prepared for Council consideration and approval. Following Council's approval, the Department Manager will coordinate with the Municipal Clerk to ensure that a contract which legally binds the corporation is executed by the Mayor and Clerk.

Once an award is made by Council, the report recommending an award shall be a matter of public record.

RFP results, if requested, shall be made public by the Department Manager or Municipal Clerk.