



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2010-130

A by-law to address Purchasing regulations,
processes and methods.

COUNCIL ENACTS AS FOLLOWS:

1) Definitions

In this by-law,

- a) “Agent” means the Manager, Purchasing and Risk Management of the Corporation or Designate, in all cases, the Manager, Purchasing and Risk Management is the sole authority authorized, save and except the Mayor and Clerk, to execute contract documents on behalf of the Corporation.
- b) “Award Report” is the report generated by the Director, using the appropriate reporting template available through corporate templates, in order to obtain approval to award a Quotation, Tender or Proposal.
- c) “Bid” is the response submitted by a bidder to an invitation to bid or to a multi-step process (Proposal). The complete bid document may be referred to as “the bid”. The response to a request for proposal is referred to as proposal or offer.
- d) “Bid Security” is a bond or deposit which guarantees that the bidder or offeror, if awarded the contract, will accept the contract as bid.
- e) “Bid Transmittal” is a form submitted by departments prior to the onset of formal bid activity, providing key information about the project and its proposed funding sources. Transmittals shall be fully approved by the Agent and the Deputy Treasurer, Director of Financial Planning prior to the start of the bid process.
- f) “Chief Administrative Officer” (C.A.O.) , means the official or designate, appointed by Council, to oversee the administrative management of the Corporation.
- g) “Clerk” means the Clerk of the Corporation or designate.

- h) "Commissioner" means a Commissioner of the Corporation who oversees a specific corporate commission or designate.
- i) "Conflict of Interest" is defined as a situation or circumstance, real or perceived, which could give a supplier or consultant an unfair advantage during a procurement process or compromise the ability of a supplier or consultant to perform its obligations under their contract.
- j) "Contract" includes the purchase of supplies and services by or on behalf of the Corporation and the sale or disposal of unusable, obsolete, surplus, worn-out or scrapped supplies by or on behalf of the Corporation.
- k) "Corporation" means The Corporation of the Town of Oakville.
- l) "Costs" means the total cost of the goods or service, including contract contingencies plus taxes, less rebates.
- m) "Council" means the municipal council of the Corporation.
- n) "Department" means a division of a corporate commission
- o) "Designate" means the person or persons assigned the duties and responsibilities on behalf or in the absence or incapacity of the person charged with the principal authority to take the relevant action or decision.
- p) "Director" means the head of a specific department of the Corporation being a Director, or designate.
- q) "Electronic Purchase Order" means either a purchase order for goods or services under \$25,000 (OU) or a Purchase Requisition (OR).
- r) "Electronic System" means the Corporate Information System (CIS) used to track all financial transactions within the Corporation.
- s) "Goods" see "Supplies".
- t) "Halton Cooperative Purchasing Group" or "HCPG" means the member municipalities and other public funded agencies within the Region of Halton who participate in cooperative purchasing activities.
- u) "Mayor" means the Mayor of the Corporation or Designate.
- v) "Non-Compliant" means the response to the bid or offer does not conform to the mandatory or essential requirements contained in the Invitation for bids.
- w) "Prequalification" is the process of screening potential suppliers, contractors or consultants in which such factors as financial capability, reputation and

experience are considered in order to develop a list of qualified businesses who may then be allowed to submit bids or proposals.

- x) "Proposal" means an offer from a supplier to provide supplies and/or services, acceptance of which may be subject to further negotiation, also called Request for Proposal (RFP).
- y) "Purchase Card Operating System" also referred to as PCOS, means the Town's Corporate credit card system, policies and procedures.
- z) "Respondent" means a person or business who submits a response to a Corporation's solicitation for supplies or services, and "bidder" or "offeror" shall have the same meaning.
- aa) "Responsible" means a respondent who is deemed to be fully capable, technically and financially, of supplying the goods or services requested in the solicitation.
- bb) "Responsive" means a bid or offer which correctly and completely responds to all of the requirements that are considered significant or important in effect or meaning; as outlined in the solicitation.
- cc) "Roster System" is a process for determining a number of prequalified vendors or consultants to be hired on a rotational basis to fulfill specific requirements or projects.
- dd) "Services" may include, but are not limited to, telephone, gas, water, hydro, janitorial and cleaning services, consultant services, legal surveys, medical services, insurance, and the rental, repair or maintenance of equipment, machinery or other personal property.
- ee) "Single Source" is a procurement decision whereby purchases are directed to one source of supply, rationalized by a sound business case, even though other competitive sources may be available, or are capable of providing the goods or services within the necessary time frame.
- ff) "Sole Source" is a procurement decision whereby purchases are directed to one source of supply as no other source is qualified or capable of providing the goods or services
- gg) "Standard Criteria" includes clear and objective evaluation criteria based on duties or services that are normally performed during the contract to which the performance evaluation is relevant.
- hh) "Standardization" is the adoption of a single product or group of products to be used at the exclusion of all others.

- ii) "Supplies" include goods (as defined by the *Sale of Goods Act*, RSO 1990, c. S.1), wares, merchandise, materials, and equipment used or required by the Corporation.
- jj) "Treasurer" means the Commissioner of Corporate Services & Treasurer of the Corporation or Designates.

2) **PURPOSES, GOALS AND OBJECTIVES OF THIS BY-LAW**

- a) The Corporation wishes to establish sound policies for the purpose of procuring supplies and services in a manner that is congruent with providing ethical, professional and accountable delivery of programs and services to the residents of the town, and that shall protect the integrity of the Corporation, the public and the participants in the procurement process. Hence, the goals of this by-law are to:
 - i) ensure objectivity and integrity in the procurement process;
 - ii) ensure fair treatment of all bidders;
 - iii) ensure openness, accountability and transparency while protecting the financial best interests of the Corporation and obtaining the best value when procuring supplies and services; and
 - iv) maintain timely and relevant policies and procedures by reviewing this by-law, at minimum, within five (5) years of the approval date to evaluate its effectiveness. This review shall be undertaken by an *ad hoc* committee of Directors or Designates, the final result of which shall be comprised of a report to Council by the Agent. This provision is intended for review purposes only; the failure to conduct a review within the time period set out shall not have an effect on the validity of this by-law.

3) **COMPLIANCE TO PURCHASING POLICIES**

- a) Council, the public and the business community shall have confidence in the integrity of the Corporation's employees. An employee who knowingly fails to act in accordance with the provisions of this by-law will be subject to appropriate disciplinary action, in accordance with the Town's Employee Code of Conduct.

4) **ETHICS**

- a) The Ontario Broader Public Sector Supply Chain Code of Ethics is based upon the tenets listed below. All members of Council and all employees who are authorized to purchase supplies and/or services on behalf of the Corporation are to adhere to the following:

i) Personal Integrity and Professionalism

All individuals involved with purchasing or other supply chain-related activities shall act, and be seen to act, with integrity and professionalism. Honesty, care and due diligence shall be integral to all supply chain activities within and between Broader Public Sector (BPS) organizations, suppliers and other stakeholders. Respect shall be demonstrated for each other and for the environment. Confidential information shall be safeguarded. All participants shall not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.

ii) Accountability and Transparency

Supply chain activities shall be open and accountable. In particular, contracting and purchasing activities shall be fair, transparent and conducted with a view to obtaining the best value for public money. All participants shall ensure that public sector resources are used in a responsible, economical, efficient and effective manner.

iii) Compliance and Continuous Improvement

All individuals involved in purchasing or other supply chain-related activities shall comply with these ethics and the laws of Canada and Ontario. All individuals should continuously work to improve supply chain policies and procedures, to improve their supply chain knowledge and skill levels, and to share leading practices.

iv) An Irreproachable Standard of Personal Integrity on the Part of All Those Designated a Purchasing Representative by the Corporation.

Absolutely no gifts or favours shall be accepted by purchasing representatives of the Corporation or by members of Council in return for business or the consideration of business. With the exception of requests for performance references from other public agencies, the purchasing representatives of the Corporation will not endorse one bidder in order to give that bidder an advantage over others.

- b) Further, the Town of Oakville Employee Code of Conduct and Council's Code of Conduct shall govern appropriate conduct and decision making within the authority granted under this by-law.

5) **RESPONSIBILITIES OF THE AGENT**

- a) The Agent shall have charge of and be responsible for:
 - i) The purchase of all supplies and/or services required by the Corporation with the exception of those listed in Schedule “B” and Schedule “C”.
 - ii) The duties of the Agent as set out in Schedule “A”.
- b) All contracts arising from a competitive bid process shall be held on file by the Purchasing and Risk Management Division following their execution.
- c) All consulting agreements shall be held on file by the Purchasing and Risk Management Division and shall be accompanied by a Purchase Order covering the scope and extent of the services to be provided.

6) **FILING BY THE DEPARTMENT**

- a) Every Director shall file with the Agent detailed bid transmittal forms for supplies and services with a total value exceeding \$25,000.00, detailing departmental requirements in such manner, at such times, and for such future periods as the Agent shall prescribe, and including budgetary limit and authorization.
- b) Notwithstanding 6(a), a department may file with the Agent in the same manner at any time a bid transmittal for any supply or service under \$25,000.00, the need for which may arise from time to time.
- c) Where no formal bid activity is required under this by-law, Directors are responsible to ensure that all purchases of supplies and services are entered into the Corporate Information System (CIS), prior to delivery of supplies or services from the supplier in order to protect the financial welfare of the Corporation and provide the Treasurer with an accurate accounting of the Corporation's finances.
- d) Where the purchase of goods or services is greater than \$5,000 but less than \$25,000, three bids, as required under Schedule C, shall be attached to the purchase order in CIS.

7) PROVISIONS FOR PURCHASING

The following provisions shall apply to the purchase of supplies and/or services by the Agent, except those provided in Schedules “B” and “C” to this by-law:

- a) A user department shall submit an electronic purchase requisition which shall be approved as prescribed within this by-law for bid awards and as set out by the Financial Corporate Policy “Financial Control”.
- b) Every purchase shall require the issuance of an electronic purchase order, with the exception of PCOS purchases, prior to the delivery of goods or the completion of service.
- c) Every purchase shall be authorized by Council annually through approved budgets, with the exception of purchases required for emergency situations.
- d) Where, in the opinion of the Town Solicitor or the Agent, the vendor requires a different form of commitment than a Purchase Order, a contract in a form satisfactory to the Town Solicitor shall be the form of commitment and payments shall be processed through an approved payment certificate or electronic purchase order.

8) POWERS OF THE AGENT

- a) The Agent is hereby authorized to make any purchases required by the Corporation and to sell or dispose of any surplus, unusable, obsolete, worn-out, disused or scrapped supplies in accordance with this by-law.
- b) The Agent may delegate the disposal of surplus equipment to another Division of the Finance Department, within the Corporation.
- c) The Agent is to monitor compliance with this by-law and report all infractions to the Treasurer

9) POWERS OF THE TREASURER

- a) The Treasurer is hereby authorized to pay for any supplies and/or services purchased by the Agent in accordance with this by-law, upon receipt of:
 - i) A supplier’s invoice or request for payment together with an approved electronic receiving entry by the Corporation. Receiving shall indicate that the supplies and/or services have been received against an electronic

purchase order entry, as approved by the Director or Designate and as set out in the Corporate Policy “Financial Control” which matches in price and terms with the supplier’s invoice; or

- ii) As it pertains to competitive bidding contracts: upon receipt of an authorized payment certificate, either manual or electronic, which matches in price and terms with the bidder’s contract; approved by the director or designate and as set out in the corporate policy, “Financial Control”.
- b) The Treasurer is hereby authorized to pay for any supplies and/or services purchased in accordance with Schedule “B” to this by-law upon receipt of an invoice endorsed by the Director or Designate as set out in the Corporate Policy “Financial Control” indicating the receipt of such, the price thereof and the appropriate account to be charged.
- c) The Treasurer acts as signing authority as it relates to contracts for supplies or services in the absence of the Agent.
- d) The Treasurer shall review and approve all competitive bid and single/sole source award reports to ensure sufficient budgeted funds exist to support the project recommended for award.

10) INSPECTION OF SUPPLY AND SERVICES

- a) Every department shall inspect all deliveries of supplies and services to determine whether they meet the specifications set out in the purchase order contract prior to formal receipt in the financial system.
- b) The Agent or Departmental Designate approved by the Agent shall be responsible for the return of all supplies and termination of all contracts which do not meet the specifications set out in the purchase order or contract documents.

11) CO-OPERATIVE PURCHASING

- a) The Agent is hereby authorized to participate in co-operative purchasing arrangements with other municipalities, regions, local boards and public agencies within the Province. In particular, the Agent may choose to participate in the co-operative bid calls conducted by the Halton Co-operative Purchasing Group (HCPG), and conduct such bid calls on behalf of the HCPG. When doing so, the Agent shall abide by the HCPG Operating Procedures.

12) ACQUISITION OF SUPPLIES AND SERVICES FROM OTHER GOVERNMENT BODIES

- a) The Agent may acquire any supplies or services from a federal, provincial or municipal body, ministry, agency, board, corporation or authority when similar supplies or services are not available from other sources or in the case of Provincial and Federal Standing Agreements, or other competitive procurement processes, the Agent may take advantage of these opportunities if they are deemed to be in the best interest of the Corporation.
- b) It is recognized that service relocations may only be done by the designate authority, e.g. Union Gas, Oakville Hydro.

13) COUNCIL AUTHORIZATION REQUIRED

- a) Except as provided in Section 29, no committee established by Council, no member of Council and no employee of the Corporation shall enter into any contract on behalf of the Corporation without express authority from Council.
- b) No employee or member of Council of the Corporation shall support, approve, condone or pay for any contract entered into contrary to subsection (a).
- c) Contracts purported to be entered into in contravention of a) or b) above shall be unenforceable and the requirements of the contract will not be binding upon the Corporation.

14) NO DIRECT PURCHASING OF SERVICES AND SUPPLIES

- a) No service or supply shall be purchased by the Corporation from any employee of the Corporation or member of Council without the express authority from Council.
- b) The Agent shall not make or authorize personal purchases for any member of Council or for any employee of the Corporation.
- c) In-house bidding is a process that allows for internal departments to compete with external entities for procurement opportunities. In-house bidding may be used for the procurement of supplies and/or services in circumstances where Council considers it appropriate to do so. Otherwise, in-house bidding shall not be permitted.

- d) Where Council considers in-house bidding to be appropriate, all potential suppliers shall be advised in the bid documents that in-house departments will be permitted to submit bids.
- e) In accordance with the Corporation's Employee Code of Conduct and Council's Code of Conduct, no member of Corporation staff or Council may receive a personal benefit from any Corporation contract for supplies and/or services or benefit from the very nature of their employment with the Corporation or their being on Council, as the case may be.

15) **PURCHASING PROCEDURES**

- a) Subject to the provisions of this by-law and the policies of the Corporation, the following procedures may be used in purchasing services and/or supplies for the Corporation:
 - i) Corporate Purchasing Card (PCOS)
 - ii) Small Order (Informal Bidding - OU)
 - iii) Quotation (RFQ)
 - iv) Tendering (RFT)
 - v) Request for Proposals (RFP)
 - vi) Negotiation and Single or Sole Source
 - vii) Emergency procurement
 - viii) Standardization procurement

16) PROCESSES AND LIMITS

Total Procurement Value	Procedure	Process to be used	Mandatory
<\$5,000	PCOS (Corporate Purchasing Card)	open procurement, no quotations required	
<\$25,000	Small Order, Informal quotations (OU) and Requests for proposal (OR)	Informal quotes with at least 3 bids requested, Capital Projects awarded by award report	Schedule C Schedule F
<\$250,000	Formal Quotation (RFQ) and Requests for Proposal (RFP)	formal process, quotations administered by Purchasing	Schedule D Schedule F
>\$250,000	Formal Tenders and Requests for Proposal	formal process, tendering administered by Purchasing	Schedule E Schedule F

- a) For purchases up to a total amount of \$5,000, a Corporate Purchasing Card may be used in strict accordance with the Corporate Purchasing Card procedure, as determined by the Treasurer; the user department may also choose to solicit quotations via telephone, facsimile or letter and create a Purchasing order to authorize payment when payment by credit card is not viable.
- b) The following purchasing procedures shall apply to purchases greater than five thousand dollars (\$5,000) including all known costs and contingencies associated with the purchase, except as otherwise provided in this by-law or otherwise authorized by Council:
 - i) The **Open Market Procedure** (Informal Bidding) outlined in Schedule “C” shall apply where the total estimated contract price per project or annually (excluding value added tax) is expected to be less than twenty five thousand dollars (\$25,000), but greater than five thousand dollars (\$5,000).

- ii) The **Formal Quotation Procedures** outlined in Schedule “D” shall apply where the total estimated contract price per project or annually (excluding value added tax) is expected to be less than two hundred and fifty thousand dollars (\$250,000) but more than twenty five thousand dollars (\$25,000).
- iii) The **Formal Tendering Procedures** outlined in Schedule “E” shall apply where the total estimated contract price per project or annually is expected to be two hundred and fifty thousand dollars (\$250,000) or more.
- iv) **Requests for Proposals** for supplies and/or services may be called when the requirements of supplies or services cannot be definitively specified, or the requirements or services are non-standard in nature, and where such proposals would result in specific offers by the bidders to fulfil the requirements at a particular price. Requests for Proposals Procedures, as outlined in Schedule “F” shall apply as outlined in those cases.
- v) **Standardization Procurement Procedures** of a Particular Product, Service or Support Activity as outlined in Schedule “G” shall apply where the total estimated contract price is expected to be more than five thousand dollars (\$5,000).
- vi) The Agent may apply the **Single or Sole Sourced Procurement Procedures** as detailed in Schedule “H” when any of the conditions as described in Schedule “H” apply, and where the total estimated contract price is expected to be more than five thousand dollars (\$5,000).
- vii) **Emergency Purchasing Procedures** as outlined in Schedule “I” shall apply where the total estimated contract price is expected to be more than five thousand dollars (\$5,000).

17) **SPECIFICATION DEVELOPMENT**

- a) Vendors, potential vendors and/or consultants shall not be requested to expend time, money or effort on design or in developing specifications or otherwise to help define a requirement beyond the provision of general information. Where services are required for the development of specifications, design or detailed scope of work:
 - i) the Agent shall be advised prior to any agreement;
 - ii) the contracted vendor shall be considered a consultant and will not be allowed to make an offer for the supply of the supplies and services;

- iii) a fee shall be paid, the amount of which shall be determined and agreed upon by the vendor before the service commences; and
 - iv) the detailed specifications shall become the property of the Corporation, and may be used in obtaining competitive bids.
- b) Schedule “K” provides procedures, exceptions and guidelines for Specification Development and Schedule “L” provides procedures and guidelines for resulting Conflict of Interest provisions.

18) PERFORMANCE EVALUATION

- a) At the outset of a project, the user department manager shall institute a performance evaluation process in contracts where the manager and/or The Agent determine that a performance evaluation would be appropriate for the size and/or complexity of the project.
- b) The performance evaluation shall rate the performance of the vendor, contractor or consultant on standard criteria developed, reviewed and revised from time to time by the Agent. A copy of the Performance Evaluations and introductory letter shall be provided to the vendor, contractor or consultant in advance of the contract, and shall remain constant for the duration of the contract. Performance issues shall be noted in writing with a copy to the vendor and a copy to the departmental project file. Performance issues shall also be noted in any site meeting or project meeting minutes.
- c) On completion of the project, the Project Co-ordinator/Engineer shall meet with the Purchasing Representative to review the evaluation. All back-up documents pertaining to any substandard evaluations and comments shall be attached to the evaluation document. Purchasing will forward a copy of the completed evaluation to the vendor, contractor or consultant for their records. The vendor, contractor or consultant may request a meeting with the Agent and the Project Co-ordinator/Engineer to discuss the evaluation and shall have twenty (20) calendar days following delivery of the evaluation to request an appeal. This appeal shall be forwarded to the Manager of Purchasing and Risk Management.
- d) The appeal shall be conducted by a Dispute Committee which shall hear from both Corporation staff and the supplier at a time and place appointed in writing by the Committee. The Dispute Committee shall be comprised of the Treasurer, the Deputy Treasurer & Director, Financial Operations, the Manager of Purchasing and Risk Management or designate, and the Director of the user department involved. A quorum of the Dispute Committee shall be two of the four members. The decision of the Dispute Committee shall be in writing and it shall be final.

- e) The performance evaluation shall determine whether a vendor, contractor or consultant will:
 - i) be allowed to renew a contract with the Corporation;
 - ii) be allowed to tender or respond to requests for proposals for future contracts with the Corporation;
 - iii) be placed on a probationary list for a minimum of two years during which time it shall be permitted to bid or propose work for the Corporation; the work of those on probation will be closely monitored;
 - iv) be suspended from bidding on any contracts with the Corporation during a three-year period, followed by a one-year probationary period after re-instatement.
- f) In reaching a decision, the manager, contract co-ordinator or project engineer or Dispute Committee shall be entitled to rely upon the evaluation criteria determined in advance of the project and the results of prior performance evaluations relating to other contracts performed by the same contractor or consultant.
- g) No tender, proposal or quotation shall be accepted from any contractor or consultant, nor shall any purchase order be issued for payment during the term of the suspension.
- h) The results of any Performance Evaluation may be disclosed to other municipalities or government bodies upon request, where it can be demonstrated that the contractor has listed the Corporation as a work reference.

19) LEGAL CLAIMS AND DAMAGES

- a) The Corporation reserves the right not to accept a Response from any person or corporation which includes any non-arms length corporation who, or which, has a claim or instituted a legal proceeding against the Corporation or the Region of Halton, or against whom the Corporation or the Region of Halton has a claim or instituted a legal proceeding with respect to any previous contracts, bid submissions or business transactions inclusive of those listed as either the proposed general contractor or sub-contractor or vendor within the submitted Responses.
- b) A bidder, by submitting a bid, agrees that it will not claim damages, by any means, in respect to any matter relating to the contract or bidding process in excess of an amount equivalent to the reasonable costs incurred by the bidder

in preparing its bid and waives any claim for loss of profits if no contract is made with the bidder.

20) DIVISION OF CONTRACTS PROHIBITED

- a) No employee of the Corporation shall divide a purchase or a contract with the sole intent of avoiding the requirements of this by-law. Nor shall purchases be split in order to circumvent prescribed spending authority dollar limits.

21) NO LOBBYING

- a) No bidder or potential supplier or consultant shall contact any member of Council or any employee of the Corporation to attempt to influence the award of a contract. Any activity designed to influence the decision process, including, but not limited to, contacting any member of Council or employee of the Corporation for such purposes as meetings of introduction, social events, meals or meetings related to the selection process, shall result in disqualification of the bidder for the project to which the influential activity is deemed to be directed. Notwithstanding the above, this prohibition does not apply to meetings specifically scheduled by the Corporation for presentations or negotiations, or to questions which staff of the Purchasing and Risk Management Division may pose from time to time, for clarification of the Corporation's requirements.
- b) No bidder who has been awarded the contract shall engage in any contact or activities in an attempt to influence any member of Council or any employee of the Corporation with respect to the purchase of additional enhancements, requirements, options, or modules. However, a contractor may communicate with the Agent or the Commissioner of Corporate Services and with such other persons as authorized by the Commissioner of Corporate Services, for purposes of administration of the contract during the term of the contract.
- c) The determination of what constitutes influential activity is at the sole discretion of the Corporation, acting reasonably, and not subject to appeal.
- d) At the discretion of the Corporation, any supplier, who violates the provisions of this paragraph, shall be prohibited from any further opportunity to provide goods or services to the Corporation for a reasonable amount of time as determined by the Agent.
- e) Staff and Members of Council are to adhere to the provisions of the Town's Employee Code of Conduct and Council's Code of Conduct when considering all actions noted above.

22) ENVIRONMENTAL CONSIDERATIONS

- a) The Corporation, in accordance with Schedule “J”, shall make attempts to preserve the environment and reserves the right to encourage the procurement of supplies and services with due regard to the preservation of the natural environment; suppliers may be selected to supply goods made by methods resulting in the least damage to the environment, and/or to supply goods incorporating recycled materials where practicable. It is to be understood that total lifecycle cost analysis may be required to ensure that these supplies and services are financially viable and available at competitive prices.

23) NO LOCAL PREFERENCE

- a) The Corporation will endeavour to achieve the best value in its commercial transactions. As a result, the Corporation will not be bound to purchase supplies or services based upon Canadian content, nor shall the Corporation practice local preference in awarding purchasing contracts unless specifically required to do so under the authority of an upper tier government body.
- b) All procurement processes are to be conducted so as not to unduly exclude local vendors while at the same time maintaining the duty to be fair, open and transparent.
- c) Requirements under LEED Certification or other environmental considerations as noted in Section 22 supersede the clause above.

24) BID IRREGULARITIES

- a) A bid irregularity is a variance between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response.
- b) Bid irregularities are further classified as either “major irregularities” or “minor irregularities” or “mathematical errors”, and defined as follows:
 - i) “major irregularity” is a deviation from the bid request which 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 Agent shall reject any bid, which contains a major irregularity, without further consideration.
 - ii) “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 Agent may permit the bidder to correct a minor irregularity.

- iii) “mathematical error” is a deviation in addition, subtraction, multiplication or division, or a transposition error which may or may not affect the total price. The agent shall check price extensions and calculations and shall correct any mathematical error based on the unit price bid. If sales tax calculation is required on the Form of Tender, the Agent shall correct sales tax amounts in accordance with the re-calculated price extensions noted in Section 24) b) ii) above.

25) MAJOR IRREGULARITY – AUTOMATIC REJECTION

- a) Failure to meet any of the following requirements constitutes a major irregularity and will result in automatic rejection of the bid:
 - i) The bid shall be on the form supplied by the Town or in the format specified in the bid document.
 - ii) The envelope template provided with the bid shall be used and affixed to the sealed envelope provided by the bidder. The information required on the envelope shall be fully completed. All required documents, as listed in the bid document, shall be enclosed in the tender envelope.
 - iii) The bid shall be received and time-stamped at the location specified in the bid, on or before the official bid closing time stated in the bid document.
 - iv) Price-related information shall be non-erasable (i.e. written in ink, or typewritten). Prices shall be complete, legible and specified in accordance with the bid request. Price changes shall be initialled.
 - v) Bid security shall be submitted with the bid when the bid request (or any addenda) indicates that such security is required. Bid security shall be in the form specified in the bid request, or in a form providing equivalent or greater financial security for the Corporation. Amount of bid security shall be no less than the amount indicated in the bid request.
 - vi) Proof of authority (corporate seal or signatures) to bind the bidder shall be evident in the bid submission when the bid request (or any addenda) indicates that such proof is required. All signatures on all forms, where and when noted in the document, shall be original and shall be sealed or witnessed where no seal is available.
 - vii) Bid or performance bonding company shall be licensed to conduct business in Canada and in the Province of Ontario. The Bid Bond and Agreement to Bond commitments shall be in original form, signed and sealed or witnessed where no seal is available by both the Bonding Company and the bidder. Photocopies or fax copies shall not be accepted. The Agent may make allowances in certain circumstances as noted under Section 26) a) iii).

- viii) Notwithstanding provisions for “alternate bids” which may be contained in the bid request, bids shall conform to the essential requirements in the specifications or terms of reference, without qualification. Essential requirements are those which are necessary to perform the intended operation. The Agent, in conjunction with the user department, shall determine whether the given qualification constitutes a major or a minor irregularity.
- ix) Bidders shall attend site meetings, if such attendance is identified in the advertisement and bid request as mandatory.
- x) The tender shall not be qualified in any manner; there shall be no exceptions to the specifications or requirements unless authorized in writing by the Agent.
- b) The Agent, prior to any bid award, shall notify bidders whose bids are rejected due to a major irregularity.
- c) The above list of irregularities should not be considered all-inclusive. The Agent, after consultation with the requisitioning department, may reject a bid based on an irregularity not listed, but considered major.

26) MINOR IRREGULARITY – BIDDER MAY RECTIFY

- a) Any of the following constitutes a minor non material irregularity and may, at the request of the Agent, be rectified by the bidder after the close of bids:
 - i) Minor clerical errors;
 - ii) Un-initialled minor changes to information contained in the bid document (e.g. the bidder’s address is amended by overwriting but is not initialled);
 - iii) In the case of non-submission or errors in the Performance and Labour and Material bonds, the Agent may determine that the bidder should have the opportunity to rectify a major irregularity, the Agent shall notify the bidder and ask that the deviation from the bid request be rectified within 24 hours from the time of notification.
 - iv) Where a bidder does not provide the information within the specified time, the Agent shall reject the bid.
- b) The above list of irregularities should not be considered all-inclusive. The Agent, in consultation with the requisitioning department shall review any minor irregularities not listed. The Agent may then accept the bid, or request that the bidder rectify the deviation.

27) MATHEMATICAL ERRORS – RECTIFIED BY STAFF

- a) The Agent shall correct errors in mathematical extensions and /or taxes, and the unit prices will govern. All changes to pricing by the Agent shall be in red ink and initialled.

28) UNBALANCED BIDS

- a) If, in the opinion of the Agent, any Bidder has underestimated the value of the goods and/or services to be provided as reflected in its submitted price/fee, the Agent may reject the bid as unbalanced (i.e., not representative of the scope of the goods and/or services).

29) AUTHORITY TO EXECUTE CONTRACTS

- a) All contracts with a value at or in excess of \$250,000 (including any ancillary document, prepared in a form acceptable to the Town Solicitor) shall be signed by the Mayor and Clerk. Contract with a value less than \$250,000 (including any ancillary document, prepared in a form acceptable to the Town Solicitor) shall be signed by the Agent.
- b) Contracts signed by persons who are not authorized pursuant Section 29 a) above shall be unenforceable and the requirements of the contract shall not be binding upon the Corporation.

30) SCHEDULES

- a) Attached hereto and forming part of this by-law are the following Schedules:
 - i) Schedule “A” - Duties of Agent
 - ii) Schedule “B” - Exceptions from Requirements of Purchasing Process
 - iii) Schedule “C” - Open Market Procedure (Informal Bidding Activity - OU or OR)
 - iv) Schedule “D” - Formal Quotation Procedures (RFQ)
 - v) Schedule “E” - Formal Tendering Procedures (RFT)
 - vi) Schedule “F” - Procedure for Requests for Proposals (includes hiring of consultants) (RFP)
 - vii) Schedule “G” - Standardization Procurement Procedures of a Particular Product, Service or Support Activity
 - viii) Schedule “H” - Single or Sole Sourced Procurement Procedures
 - ix) Schedule “I” - Emergency Procurement Procedures

- | | | |
|-------|----------------|--|
| x) | Schedule "J" - | Environmental Sourcing and Procurement |
| xi) | Schedule "K" - | Development of Specifications |
| xii) | Schedule "L" - | Conflict of Interest |
| xiii) | Schedule "M" | Prequalification Procedures |

31) **REPEAL OF PRIOR BY-LAW**

- a) **By-Law 2006-086 as amended is hereby repealed.**

PASSED this 30th day of August, 2010

MAYOR

CLERK

SCHEDULE "A"

DUTIES OF AGENT

- 1) In carrying out the powers and duties conferred upon said Agent, the Agent, subject to and in accordance with the provisions of this by-law, shall:
 - a) Have charge of and be responsible for the organization, establishment, compliance and maintenance of a centralized purchasing system.
 - b) Attempt to procure for the Corporation the most appropriate supplies and services having regard to achieving best value for the Corporation.
 - c) Expedite late deliveries of supplies and services as requested by a department.
 - d) Attempt to obtain full and open competition on all purchases and sales whenever possible.
 - e) Keep informed of current development in the field of purchasing, prices, market conditions and new products, and secure for the Corporation the benefits of research done in the field of purchasing by other government bodies, technical societies and trade associations having national recognition, and by private businesses and organizations.
 - f) Group, correlate and unify the requirements of the departments of the Corporation, and by standardization reduce the type of supplies and services used to the minimum number consistent with the needs of each department. This standardization shall be a joint co-operative program among the departments of the Corporation, with the Agent being responsible for its implementation.
 - g) Explore the possibilities of buying in bulk so as to take full advantage of discounts.
 - h) Obtain from the Directors of the Corporation from time to time itemized inventories of all supplies, which are no longer used or which have become obsolete, worn-out or scrapped. If such supplies can be used by another department, the Agent shall make them available to that department. If such supplies cannot be used for purposes of the Corporation, the Agent shall attempt to expediently procure for the Corporation the highest possible trade-in value or sale price for such supplies.
 - i) Interview sales persons and refer them to other departments where technical information is required.

- j) Visit suppliers when necessary to expedite deliveries, inspect facilities, goods or supplies, or establish goodwill.
- k) Apply all Federal and Provincial tax exemptions to which the Corporation is entitled.
- l) Co-operate with other departments of the Corporation to secure maximum efficiency in budgeting and accounting.
- m) Prescribe and maintain forms and/or systems necessary for the operation of the centralized purchasing system.
- n) Assist, at the request of a Director, in the preparation of plans and specifications with the support of outside professional assistance as deemed necessary, and review such plans and specifications with regard to the needs of this by-law and market acceptability.
- o) Attend to all matters pertaining to customs and excise in the import or export of supplies on behalf of the Corporation.
- p) Execute on behalf of the Corporation, Corporate Purchase Orders in a form satisfactory to the Town Solicitor.
- q) Execute on behalf of the Corporation, all contracts for the purchases of goods or services other than those which require execution by the Mayor and Clerk.
- r) Maintain care and control of all original copies of contracts and their accompanying documents (i.e. performance bonds, insurance, etc) within the appropriate and secure files of the Purchasing and Risk Management Division

SCHEDULE "B"

EXCEPTIONS FROM REQUIREMENTS OF PURCHASING PROCESS

- 1) Purchasing processes are not required for the following items unless specifically requested by the Requisitioner or the Agent. The Agent has the authority to execute any contracts required under this schedule. The Agent, may delegate this authority if the Agent determines such delegation to be in the best interests of the Corporation:

a) Petty Cash Items - Maximum \$50 per transaction

b) Training and Education – if employee paid, reimbursed through payroll

- i) Conferences
- ii) Courses
- iii) Conventions
- iv) Magazines
- v) Memberships
- vi) Periodicals
- vii) Seminars
- viii) Staff development and training including all related, equipment, resources and supplies.
- ix) Staff workshops including all related, equipment, resources and supplies.
- x) Subscriptions

c) Refundable Employee Expenses – reimbursed through payroll

- i) Meal allowances
- ii) Miscellaneous – non-travel
- iii) Travel expenses
- iv) Entertainment expenses

d) Corporate General Expenses

- i) Payroll and Benefit Premiums and remittances
- ii) Medicals
- iii) Licences— including Hardware and Software Licences & maintenance contracts
- iv) Debenture payments
- v) Insurance premium payments, Claim Settlements and Adjuster Services
- vi) Grants to agencies
- vii) Damage claims
- viii) Petty cash replenishment
- ix) Tax remittances
- x) Property tax refunds
- xi) Workplace Safety and Insurance Board (WSIB) remittance
- xii) Building/Development permit refunds & deposit returns
- xiii) Charges to or from other government agencies with approval from Finance, including;
 - (1) Regional Permits
 - (2) Cross Boundary Agreements
 - (3) Fire Dispatch Agreements
 - (4) Radio Trunking License
 - (5) Police Services
- xiv) Real Estate transactions
- xv) Bank charges
- xvi) Development Charges and Cash in Lieu refunds

- xvii) Brokerage Fees
- xviii) Commissions
- xix) Taxi Services
- xx) Recreation program/facility refunds
- xxi) CCI Ontario Presenting Network (Oakville Centre Performing Arts)

e) Professional and Special Services

- i) Committee fees
- ii) Counselling services
- iii) Legal fees and services as authorized by Legal Department
- iv) Annual Audit Fees
- v) Appraisal charges
- vi) Survey costs where competitive bids are not able to be obtained.
- vii) Performance/artist's fees/special events
- viii) Honourarium where a Social Insurance Number shall be provided
- ix) Arbitrators
- x) Providers of artistic and recreational services, such as instructors, dance/yoga/gymnastic teachers, historical experts, artistic designers, health and appearance therapists, skate sharpening services
- xi) Hiring of consultants or contractors to complete project deficiencies or complete the work of a developer where the developer has abandoned the project or is negligent in completion and where funds to complete the work are being drawn from deposits held by the Corporation.

f) Utilities (to include servicing and requested plant modifications/relocations related to construction)

- i) Postage & Courier Services
- ii) Water and Sewage
- iii) Hydro

- iv) Gas
- v) Telephone (basic services), Cellular and Wireless Devices
- vi) Cable Television Charges
- vii) Other regulated authorities operating within and across municipal right of ways (e.g. CN Rail, GO Transit, Bell Canada)
- g) **Amendments or Renewals of Existing Agreements**

SCHEDULE "C"

OPEN MARKET PROCEDURE (INFORMAL BIDDING ACTIVITY)

- 1) Where possible, three (3) quotations, written or verbal, are to be obtained by the Director for supplies and services with values less than \$5,000. Pricing is to be recorded by the Director, if the quotation is provided verbally.
- 2) The Director or Agent is required to acquire a minimum of three (3) written bids for supplies and services with values between \$5,000.00 and \$25,000.00 using fair and ethical purchasing practices as established by the Agent. These bids shall be kept on file for a period of at least three (3) years for audit purposes.
- 3) The Director or Agent shall solicit prices by either written invitation or facsimile invitation to suppliers offering supplies or services required as determined by the Director.
- 4) In soliciting prices, the Director or Agent shall indicate the specifications, terms and conditions equally to all bidders, all of which are to form the basis of the awarded contract.
- 5) Where a contract is awarded, it shall be awarded to the lowest "responsive and responsible bidder". The department shall have the authority to make the award. Any contract documents, other than a small purchase order, shall be reviewed and executed by the Agent.
- 6) In determining the "responsive and responsible bidder", the Director or Agent shall consider the factors set out in Section 21, a) of Schedule "E hereto.
- 7) The Corporate Purchasing Card Program may be used by the Directors to acquire supplies and services as set out in the Corporate Purchasing Card Program Policy and meeting above requirements.
- 8) Should the Corporate Purchasing Card not be appropriate, the Directors shall provide an electronic purchase order for the acquisition of supplies and services. All activities shall meet the above outlined activities.
- 9) All quotations received and considered for a purchase made between \$5,000 and \$25,000 shall be noted, as a text attachment, on the electronic purchase order created by the department.
- 10) The Agent shall monitor the requirement in Section 9 above and report non-compliance to the Director and Treasurer.
- 11) The Director shall investigate all incidences of non-compliance and report resolution of the compliance issue to the Treasurer and the Agent.

SCHEDULE "D"

FORMAL QUOTATION PROCEDURES

- 1) Formal Quotations are required for all goods and services with an estimated cost greater than \$25,000 and less than \$250,000.
- 2) The Agent shall prepare the formal quotation documents. These documents shall provide clear instructions, specifications, terms and conditions of the contract.
- 3) The following term shall be included within all Corporation bid calls, including Quotations, Tenders and Requests for Proposal:
 - a) "The Corporation reserves the right to reject any or all quotations, and the lowest or highest bid, as the case may be, will not necessarily be accepted."
- 4) Notwithstanding and without restricting the generality of the statement immediately above, the Corporation shall not be required to award or accept a quotation:
 - a) when only one responsive and responsible bid has been received as the result of a call for quotations;
 - b) where the lowest responsive and responsible bidder substantially exceeds the estimated or budgeted cost of the supplies or service; and
 - c) where all bids received fail to comply with the specifications of quotation terms and conditions, and it is impractical to recall quotations.
- 5) The invitation for formal quotations shall be advertised at least once in an electronic tendering advertising system at minimum five (5) days preceding the closing date for quotations, or for the minimum time required by applicable trade agreements and if deemed by the Agent advisable to do so.
- 6) The Agent shall solicit formal quotations by written invitation enclosing a copy of the quotation documents.
- 7) Every formal quotation received by the Agent shall be noted with the date and time received.
- 8) A quotation shall be not considered compliant unless it meets all of the mandatory requirements listed in Section 25. Also note Sections 24, 26, 27 and 28
- 9) The Agent shall determine the amount and form of quotation security required.
- 10) Where a formal quotation has been accepted, the Agent shall forthwith arrange the return of quotation deposits to the unsuccessful bidders
- 11) The Agent shall retain the formal quotation deposit of the successful bidder until the contract has been executed and all required documents have been received.

- 12) The formal quotation deposit shall be forfeited to the Corporation where any successful bidder fails to execute the contract or furnish any required documents within ten (10) calendar days or as specified within the quotation document after notice to them to do so, or where any bidder withdraws their quotation after the quotations have been opened.
- 13) The Agent shall attempt to obtain a minimum of three (3) bidders per formal quotation where possible.
- 14) Formal quotations shall be opened at a specific time by the Agent in the presence of at least one other employee of the Corporation.
- 15) The Agent shall prepare a list of all quotations. This list shall be witnessed and signed by the other employee of the Corporation present at the opening of quotations.
- 16) The Agent is authorized to award contracts to the lowest “responsive” and “responsible bidder” upon receipt of a fully approved award report.
- 17) In determining the “responsive and responsible bidder”, the Agent shall consider the factors set out in Section 22, b) of Schedule “E” hereto.
- 18) If two or more low formal quotations are submitted in the same amount, the Agent shall prepare and file with the C.A.O. a report on the method by which the contract was awarded.
- 19) Neither the acceptance of a formal quotation nor the award of the formal quotation shall be binding on the Corporation until a written purchase order has been entered into the Corporation’s financial system, or a contract is executed by the Agent or the Mayor and Clerk.

APPROVAL AUTHORITIES:

Total Purchase Amount	Delegated Purchasing Authority level
>\$5,000	Manager
\$25,000—<\$100,000	Director
\$100,000—\$250,000	Commissioner

- a) The Director will create an award report. All reports will be addressed to the Manager of Purchasing and Risk Management (Agent), and will follow the report template provided.
- b) The Treasurer shall approve all reports, upon review by the Financial Analyst to confirm budget availability.

- c) All reports will be forwarded to the Manager of Purchasing and Risk Management, once departmental approvals are obtained. Purchasing and Risk Management Division will circulate and track other required approvals.
- d) All reports shall be kept within secure files in the Purchasing and Risk Management Division once delegated purchasing authority levels are in place.

SCHEDULE "E"

FORMAL TENDERING PROCEDURES

- 1) Formal Tenders are required for all goods and services with an estimated cost greater than \$250,000.
- 2) The call for tenders shall be advertised at least once in an electronic tendering advertising system at least fifteen (15) calendar days, or as required by any Provincial or Federal Trade Agreements, preceding the closing date for tenders, unless otherwise directed by Council. The advertisement may, in addition, be placed once in a local newspaper or a major construction trade publication if deemed by the Agent to be beneficial.
- 3) The advertisement shall contain the following:
 - a) The name of the Corporation,
 - b) The tender number,
 - c) A general description of the tender complete with securities required,
 - d) The official designated to receive responses,
 - e) The time and date of closing, and any mandatory bidder's meetings or site visits,
 - f) The site location and/or address,
 - g) The location where plans and specifications may be obtained,
 - h) The administrative fee, if any, for tender documents,
 - i) A statement that the lowest or any tender will not necessarily be accepted,
 - j) Fax number and email for vendor inquiries, and
 - k) The website address where bids and addenda are posted.
- 4) Prior to a call for tenders, the Agent, when deemed to be in the best interests of the Corporation, may utilize a prequalification process, see also Schedule M. This process shall be conducted in accordance with accepted practices within the construction industry or the consulting professions

- 5) The Agent shall prepare the tender documents. These documents shall provide clear instructions, specifications, terms and conditions of the contract. Every department shall provide technical assistance in the preparation of the tender documents as requested by the Agent.
- 6) The Corporation may charge an administrative fee to bidders for issuance of tender documents.
- 7) The tender documents shall include the following:
 - a) the tender envelope template or technological equivalent
 - b) the tender form,
 - c) terms and conditions of the specific tender as well as the Town of Oakville Standard Instructions to Bidders document,
 - d) special provisions where applicable,
 - e) specifications,
 - f) evaluation criteria (if any),
 - g) The requirement to submit evidence of good standing with the Workplace Safety and Insurance Board,
 - h) The requirement to submit liability insurance and certificates,
 - i) The requirement to submit Occupational Health and Safety Policies and/or CAD-7 Ratings, and
 - j) Form of Agreement.
- 8) Tender documents for construction contracts may, in addition to the above, also include:
 - a) drawings and plans, and
 - b) requirements for contract securities and bonding,
- 9) A standardized tender envelope (or technological equivalent) template shall be provided to all bidders and shall provide the following:
 - a) name and address of the Corporation,
 - b) the official designated to receive the tenders,

- c) the closing date and time,
- d) the tender number, and
- e) the name or general description of the tender.

10) A standardized tender form shall be provided to all bidders and shall require the following:

- a) a statement by the bidder that the bidder reviewed and understands the tender documents, is aware of and has incorporated all addenda into their submission and that the bidder is capable of and willing to perform the requirements of the contract and enter into a legal agreement with the Corporation in regard thereto;
- b) an execution by the bidder – where the tender is submitted by a corporation, it shall be signed by the duly authorized officer or officers of the company, or in the case of partnership, by all signing partners, and sealed or witnessed where no seal is available;
- c) irrevocable period of the tender response; and
- d) The time limit for signing the contract shall be clearly stated.

11) The following terms shall be included on every tender form:

- a) “The Corporation reserves the right, in its sole discretion, to reject any or all bids, and the lowest or highest bid, as the case may be, will not necessarily be accepted.”
- b) Notwithstanding and without restricting the generality of the statement immediately above in Section 10 a), the Corporation shall not be required to award or accept a tender, and may choose to either cancel the call for tenders or recall the tenders at a later date:
 - i) when only one bid has been received as the result of a tender call;
 - ii) where the lowest responsive and responsible bidder exceeds the available project budget for the supplies or service;
 - iii) when all bids received fail to comply with the specifications of tender terms and conditions; or
 - iv) when a change in the scope of work or specifications is required.

- 12) Bidder inquiries should be faxed or emailed by the bidder to the Agent who shall forward these questions to the user department. As deemed prudent by the Agent, these questions and their respective answers shall be written and issued to all potential bidders prior to closing. Any questions and answers occurring during bidders' meetings, site visits or information sessions shall be treated in the same fashion, where possible.
- 13) The Agent shall provide the tender documents or technological equivalent upon every request accompanied by payment of any required fee, if required, thereto.
- 14) Tenders shall comply with the following minimum conditions. A bidder's failure to comply with any of these conditions shall result in disqualification of the tender.
- a) The tender form or format supplied by the Corporation shall be used.
 - b) A tender shall be received by the official designated to receive tenders at the Purchasing and Risk Management Division counter on or before the closing date and time.
 - c) All tenders shall be legible and written in ink or typewritten.
 - d) Tenders and adjustments to tenders submitted by telephone, facsimile transmission or e-mail shall not be considered unless a secure method of e-tendering is available for use by the Corporation. A bidder wishing to make adjustments to a submitted tender shall supersede it with a subsequent tender or letter enclosed in a tender envelope with the envelope template affixed and it shall be received on or before the closing date and time.
 - e) All tender forms shall be duly executed as required in ink, photocopied signatures shall not be accepted.
 - f) All required documents, such as agreements to bond or tender deposits, shall be enclosed in the same tender envelope as the tender.
 - g) All tender envelopes, with envelope template (or technological equivalent) attached or shall be sealed or secured.
 - h) The tender security shall be in the form specified in the tender documents. Where a deposit cheque is required, it shall be certified or a bank/trust company draft.
 - i) All mandatory requirements stipulated in the Corporation's Request for Tender document shall be met.
- 15) The Agent may reject a tender if, in addition to the conditions specifically noted below, see also Sections 24 to 28 of this By-law:

- a) all items have not been bid, where stipulated, with the unit price for every item clearly shown;
- b) alternative tenders have been submitted where not requested in the tender documents;
- c) the tender has been qualified by additions or alterations to the tender form, where not requested in the tender documents;
- d) the tender envelope template supplied by the Corporation has not been used;
- e) erasures, strikeouts, or over-writing have not been initialled by the signing party;
- f) it contains a mathematical error;
- g) an insufficient bid/contract security has been submitted; or
- h) the tender form is not signed in ink with an original signature. Stamps, photocopies and digitally signed documents are unacceptable.

16) Negotiations

The Corporation may award a contract on the basis of initial offer received, without discussion. Therefore, each initial offer should contain the vendor's best terms and information, and shall contain all required documents.

The Corporation reserves the right to enter into discussions and/or negotiations with the lowest responsive vendor(s) regarding adjustments to a final contract agreement. Any such adjustments made or discussed shall not constitute or be considered as new offers or counter-offers by any party. No vendor shall have any rights against the Corporation arising from such negotiations.

If the Corporation and the responsive vendor(s) cannot negotiate a successful contract, the Corporation may terminate the negotiations and begin negotiations with the next responsive vendor(s). This process will continue until a contract has been executed or all vendors have been rejected.

17) Tender Security Deposits

- a) Where tender deposits are required, the Agent shall determine the form of deposit.
- b) Where a tender deposit is required in connection with a contract for municipal public works infrastructure, the amount of tender deposit shall be in accordance with industry standards.
- c) Where a tender deposit is required in connection with a contract for the construction or demolition of a building, the amount of the deposit shall be in accordance with industry standards.
- d) In cases where the amount of the contract is not likely to represent the importance or extent of the contract, the Agent may increase or decrease the amount of tender deposit otherwise required or not request a deposit.
- e) The Agent shall retain, in safe-keeping, the deposits of the two lowest responsive and responsible tenders until an award has been determined, accepted, and a contract executed. All other tender deposits shall be returned forthwith.
- f) Should a tender not be awarded, the Agent shall forthwith arrange the return of tender deposits to the bidders.
- g) The tender deposit may be used to mitigate costs or damages to the Corporation where a successful bidder fails to execute the contract or furnish any required documents within ten (10) calendar days or as specified within the tender documents after notice to him to do so, or where a bidder withdraws his tender after tenders have been opened.

18) Addenda, Extension of Time and Cancellation

- a) Where it is deemed necessary by the Corporation to revise the tender documents, the Agent shall attempt to forward an addendum to every person who obtained tender documents for the contract. The addendum shall be attached to all tender forms not yet distributed. Addenda shall be posted on an electronic tendering website with the Tender. The onus is on the bidder to ensure that the bidder is in receipt of all addenda prior to the Tender closing.
- b) Addenda shall not be issued within the 48 working hours prior to Tender closing. Should it become necessary to issue addenda after the 48 working hour deadline, the closing date shall be extended to provide bidders the opportunity to examine and act on the addenda requirements.
- c) Where it is deemed necessary by the Corporation to extend the closing date, an addendum shall be posted on the website where the bid was posted.

Automatic electronic notification will be issued to all registered bidders that a new addendum has been issued. The onus is on bidders to check the website to ensure they have received all addenda.

Where a closing date has been extended, all bidders shall be advised that any tenders submitted prior to the giving of the extension will be returned upon request.

- d) Where it is deemed necessary by the Corporation to cancel a tender call, a cancellation notice shall be posted on the website where the bid was posted, stating that the tender call has been cancelled and every person who obtained tender documents shall be notified electronically of the cancellation. Those bidders who have picked up and paid for documents shall be offered a reimbursement or credit toward the purchase of a future bid issue.
- e) Where a tender call is cancelled prior to closing, no tenders shall be accepted. All tenders received shall be returned unopened by registered mail with a covering letter.

19)Receiving Tenders

- a) The Agent shall provide a locked secure container for the safekeeping of tenders.
- b) Every tender envelope received shall be stamped with the date and time received and initialled by the bidder and forthwith deposited unopened in the secured tender container by the Agent.
- c) Tenders received after the closing time shall be returned unopened to the bidder by the Agent together with a covering letter. Where no return address is indicated on a late tender envelope, the envelope shall be opened by the Agent only, the address obtained and the tender returned together with a covering letter setting out why the envelope was opened.
- d) A bid is determined to be late when the time stamped at the receiving location exceeds the closing time. For example, if closing time is 2:00 pm, once the time stamp reaches 2:01 pm, the bid would be determined to be late.
- e) The Agent shall maintain a list of all bidders. This list shall remain confidential until the time of tender opening. This list shall be used for recording the tender prices at the tender opening.
- f) Should a technological process be available, which would satisfy procedures (a) through (d) above, it may be implemented.

20) Withdrawal of Tenders

- a) A bidder may withdraw their tender prior to the closing time. Withdrawal requests shall be directed to the Agent by letter, facsimile, or in person. A withdrawal request made by telephone shall not be considered. All withdrawal requests made in person shall require a written withdrawal request.
- b) Tender withdrawal requests on behalf of a corporation shall be made by an officer of that corporation.
- c) Tenders withdrawn prior to closing shall be returned unopened to the bidder.
- d) The withdrawal of a tender does not disqualify a bidder from submitting another tender on the same tender call prior to the closing time.
- e) Withdrawal requests received after the closing time shall not be considered.
- f) Tender fees will not be reimbursed in the case of withdrawals under section 19 and 21 of this schedule

21) Tender Opening

- a) Tenders shall be opened at a public meeting at a time and location specified in the tender documents.
- b) The following persons or representatives shall be present at every tender opening:
 - i) the Agent,
 - ii) the Project Buyer or other witness from the Purchasing and Risk Management Division, and
 - iii) a representative of the department involved.
- c) The list of bidders prepared by the Agent shall be available to anyone in attendance at the tender opening.
- d) Tender envelopes which do not indicate the contract number or the tender's name shall be opened and placed with other tenders for that contract.
- e) The Agent shall ensure that all tenders have been accounted for prior to reading out the tenders.

- f) The Agent shall announce for each contract the contract number, the contract description, the name of the bidder, and the total amount of the tender, and shall prepare a list thereof.
- g) Any decision as to acceptance or rejection of bids due to irregularities shall not be made until a review has been conducted, and bidders will be instructed not to conclude any particular award results from the Opening itself.
- h) Where two or more tenders are submitted in the same tender envelope, the one bearing the lower price shall be considered as the tender.
- i) Where two or more tenders are submitted by the same bidder, and no withdrawal request has been received, and where both tenders are identical, only the tender received at the latest time shall be considered.
- j) Should a technological process be available which satisfies procedures a) through h) above, it may be implemented.
- k) Where tie bids are received by competing contractors and the bids are low and compliant, the following tie breaking methods may be used as discussed and agreed upon by the tied bidders;
 - i) Two low bidders are allowed 24 hours to re-examine their bids to determine if there are any cost savings that may be passed onto the Corporation. Bidder may resubmit pricing only. No change to subcontractors shall be allowed after the initial bid closing.
 - ii) The agent may flip a coin in the presence of the two bidders. The bidder whose bid envelope is stamped with the earliest time of submission may call the coin toss.
- l) The outcome of the tie breaking method is final.

22) Withdrawal of Tender During Tender Opening

- a) Where more than one contract is opened at the same tender opening, a low responsive and responsible bidder on one contract may withdraw its tender(s) on the remaining contract or contracts.
- b) The withdrawal shall be accompanied by a signed notice of withdrawal which shall be received by the Agent prior to the opening and reading out of any tenders on the contract to which it applies.
- c) The Agent or Designate shall not read out the bid amount of a withdrawn tender.
- d) Every withdrawal under this section is final.
- e) Immediately following the opening of tenders, every tender shall be checked to ensure compliance with the requirements of this schedule.
- f) Tender fees will not be reimbursed in the case of withdrawals under section 19 and 21 of this schedule

23) Award of Contract

- a) Should a report to Council respecting the award of the contract be required, the report shall remain confidential until it is distributed to Council.
- b) In considering a contract award, the Agent shall recommend that the award of the contract be made to the lowest responsive and responsible bidder or that no award be made. In determining “responsive and responsible bidder”, the Agent shall consider the following, assuming the bid contains no major irregularities. These items shall be considered in either the Tender stage or the Prequalification stage. Where a Prequalification process is used prior to a Tender process, these shall be considered during the Prequalification stage. When a Tender is issued without a prior Prequalification process, these shall be considered during the Tender process:
 - i) The bidder’s past record, if any, in performing work on behalf of the Corporation, and the ability, capacity and skill of the bidder to perform the contract.
 - ii) Whether the bidder can perform the contract promptly or within the time specified without delay or interference;
 - iii) The quality of performance on previous contracts or during previous service and favourable reference checks as provided by the bidder or as obtained by the Agent from other government agencies;

- iv) The sufficiency of the financial resources and ability of the bidder to perform the contract;
- v) The quality, availability and adaptability of the supplies or services to the particular use required;
- vi) The number and scope of conditions attached to the tender;
- vii) Any other evaluation criteria as indicated in the Request for Tenders document.
- viii) In all cases, a bid may be considered non compliant when a bidder is unable to satisfactorily demonstrate his ability to complete the work, either through references, listings of past projects or past experience with the Corporation.
- c) Where any of the tender or deposit requirements have not been met, the tender shall be considered a “Non-compliant Tender”.
- d) The Agent shall note in the written analysis every non-compliant Tender, and shall state the reason the tender is considered non-compliant.
- e) If two or more low tenders are submitted in the same amount, the Agent shall include in the written analysis the method by which the award of the contract is recommended.
- f) When evaluation criteria are being graded, a grid or spreadsheet shall be prepared and signed by each member of the Evaluation Committee, summarizing the results, and forwarded, along with individual ranking sheets, to the Agent.
- g) The Agent, following the approval of the required tender award report, shall notify the successful bidder of the Corporation’s intent to award the contract.
- h) Where a formal contract is required, it shall be submitted, at the time of notification, to the successful bidder for execution.
- i) As soon as the executed contract, and any other required documents are returned to and found acceptable by the Agent, the tender deposits of the successful bidder and the second low bidder shall be returned to them. Performance bonds from the successful bidder shall be retained.
- j) Where a bidder has been notified of the Corporation’s intent to award the contract, and the successful bidder fails to execute the contract or to provide any other required documents within the specified time, the Agent may:

- i) grant the successful bidder additional time to fulfill the requirements; or,
 - ii) award the contract to the second lowest bidder, or,
 - iii) cancel the contract.
- k) Council approval will not be required on tenders unless there is the following:
 - i) A bid that exceeded the approved budget beyond the tolerance limits available to, and which may be exercised by, the C.A.O as provided for in the Corporation's Financial Control Policy, or
 - ii) The lowest responsive and responsible bidder is not recommended by the Agent.
- l) Any award in excess of \$250,000 shall require the approval of the C.A.O.
- m) A quarterly information report shall be provided for Council detailing tenders exceeding \$250,000 called during the period, the vendor awarded the contract(s), and the value of the awarded contract(s).
- n) All executed contracts shall be kept on file with the bid documents in the Purchasing and Risk Management Division.

APPROVAL AUTHORITIES:

Total Purchase Amount	Delegated Purchasing Authority level
>\$5,000	Manager
\$25,000–<\$50,000	Director
\$50,000–\$250,000	Commissioner
> \$250,000	CAO

- a) The Director will create an award report. All reports shall be addressed to the Manager of Purchasing and Risk Management (Agent), and will follow the report template provided.
- b) The Treasurer shall approve all reports, upon review by the Financial Analyst to confirm budget availability.
- c) All reports shall be forwarded to the Manager of Purchasing and Risk Management, once departmental approvals are obtained. Purchasing and Risk Management Division will circulate and track other required approvals.

- d) All reports shall be kept within secure files in the Purchasing and Risk Management Division once delegated purchasing authority levels are in place.
- e) All purchases over \$250,000 shall be reported to Council quarterly.

SCHEDULE “F”

PROCEDURE FOR REQUEST FOR PROPOSALS

- 1) Request for Proposals documents shall be developed by the Agent in consultation with the client department. Requests for proposals are used for the purchase of goods or services and shall only be used in cases where a clearly defined specification is not available or is difficult to develop due to unknown factors or uncertainty of requirements. Requests for proposals are also used to hire consultants.

The following processing procedures and limits apply:

Total Procurement Value	Procedure	Authority
<\$10,000	The department may make the assignment to a consultant or vendor qualified to provide the good or service. The department shall ensure that fairness and transparency is maintained and that awards for projects are distributed fairly to qualified bidders or consulting firms	Manager
\$10,000 - <\$50,000	The department shall conduct an informal request for proposal process soliciting at least three written proposals. The Director shall submit an award report to the Agent for approval and tracking. The department shall ensure that fairness and transparency is maintained and that awards for projects are distributed fairly to qualified bidders or consulting firms	Director
\$0 - \$75,000	CONSULTANT ROSTERING: It may be determined by the Director and the Agent that it would be beneficial to develop a Roster System for	Director and Agent

	<p>Professional Consulting Services,. In these cases a committee comprised of a minimum of 3 members of Corporation staff with at least one member of the interested departments shall evaluate proposals from interested firms. The agent will serve as facilitator. The Agent shall call a request for Proposal to pre-qualify a roster of consultants according to discipline and to establish hourly rates for services. Once the roster is established, departments will have the ability to cycle through the roster to hire a firm to complete the project in question. Projects shall be awarded fairly to all members on the Roster. The Director shall submit an award report, for each roster assignment, to the agent for approval and tracking. Rosters will be valid for up to 5 years after which a new pre-qualification process shall commence.</p>	
>\$50,000	<p>The Agent shall conduct a formal request for proposal. The process will be open and transparent and conducted within the parameters noted below</p>	Agent

2) The following procedures shall be used when calling for proposals.

- a) At least 10 working days prior to the bid call release date, the Director shall file a bid transmittal with the Agent prior to start of the Proposal process.
- b) Except as noted above, Requests for Proposals shall be called by the Agent and will contain Terms and Conditions as developed by the Agent.
- c) Requests for Proposals shall clearly establish required project scope, outcome and/or requirements.
- d) Requests for Proposals shall specifically outline mandatory and non mandatory submission requirements. Submissions may be considered to be materially compliant, but certain clarifications may be sought after closing.

Materially non-compliant submissions shall be rejected. Once the compliant submissions have been identified, the Agent will proceed with the balance of the evaluation process.

- e) A clear articulation of all mandatory requirements shall be included in the Request for Proposal. The document shall indicate if the mandatory requirements will be assessed on a pass/fail basis and indicate how proponents achieve a passing grade. Where a proponent is disqualified for non-compliance with a mandatory requirement, no further evaluation shall take place.
- f) Requests for Proposals shall clearly outline the technical and pricing evaluation criteria and applicable ratings assigned that will form the basis of contract award.
- g) Requests for proposal may be called in a two envelope process whereby technical ranking is completed first. Proponents meeting or exceeding the pass threshold stated in the Request for Proposal shall move to the price ranking. The proponent with a combination of highest technical ranking and lowest price shall be awarded the contract.
- h) Selection Committee members shall be determined prior to the closing time of the Request for Proposal.
- i) Upon closing and after the Agent has determined compliance of the submissions, the submissions shall be distributed to the selection committee, complete with all required forms and disclosure statements.
- j) All members of the Selection Committee are to fully review each submission and complete an evaluation matrix as supplied by the Agent. The matrix is to show all rankings given by the member and is to include a written rationale for the rankings given. All comments and matrices become public documents.
- k) Proposal unit values or contents of Responses shall not be disclosed and shall be held in confidence as proprietary information. Only the contract award price of the successful proponent will be available upon award.
- l) Specific contract documents may be required. The form of contract shall be determined prior to issuing the Request for Proposal and the contract form, or mention of it, shall be included in the document.
- m) The Agent shall facilitate all proposal call processes within the limits noted in Section 1) above.
- n) All members of the Selection committee shall be required to sign a confidentiality and conflict of interest statement as it relates to the process.

- 2) All consulting agreements, whether as a result of a formal or an informal process shall be reviewed and executed by the Agent.
- 3) Payments made to consulting firms shall be made based on work completed to date. Requests for payment shall be processed and approved for payment upon receipt of an invoice and completion/approval of payment certificates and purchase orders.
- 4) A copy of all consulting agreements shall be signed by the Agent and kept on file in the Purchasing and Risk Management Division.

APPROVAL AUTHORITIES:

Total Purchase Amount	Delegated Purchasing Authority level
>5,000	Manager (no award report required)
\$25,000–<\$50,000	Director
\$50,000–\$250,000	Commissioner
> \$250,000	CAO

- a) The Director shall complete an award report. All reports shall be addressed to the Manager of Purchasing and Risk Management (Agent), and shall follow the report template provided.
- b) The Treasurer shall approve all reports, upon review by the Financial Analyst to confirm budget availability.
- c) All reports shall be forwarded to the Manager of Purchasing and Risk Management, once departmental approvals are obtained. Purchasing and Risk Management Division will circulate and track other required approvals.
- d) All reports shall be kept within secure files in the Purchasing and Risk Management Division once delegated purchasing authority levels are in place.
- e) All purchases over \$250,000 shall be reported to Council quarterly.

SCHEDULE “G”

STANDARDIZATION PROCUREMENT PROCEDURES OF A PARTICULAR PRODUCT, SERVICE OR SUPPORT ACTIVITY

- 1) Standardization is the adoption of a single product or group of products to be used by one department or a number of departments.
- 2) The Director shall submit a Single Source/Standardization report to the Agent supporting the need to follow a “standardization” method of sourcing a particular product, service or support activity, whereby a particular source of supply may be identified based on technical specifications, and sourced to the exclusion of others.

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

- 3) The following approval process shall be required:

APPROVAL AUTHORITIES:

Total Purchase Amount	Delegated Purchasing Authority level
>5,000	Manager
\$25,000–<\$50,000	Director
\$50,000–\$250,000	Commissioner
> \$250,000	CAO

- a) The Director shall complete a Single Source report noting justification for standardization. All reports shall be addressed to the Manager of Purchasing and Risk Management (Agent), and shall follow the report template provided.
- b) The Treasurer shall approve all reports, upon review by the Financial Analyst to confirm budget availability.
- c) All reports shall be forwarded to the Manager of Purchasing and Risk Management, once departmental approvals are obtained. Purchasing and Risk Management Division will circulate and track other required approvals.
- d) All reports shall be kept within secure files in the Purchasing and Risk Management Division once delegated purchasing authority levels are in place.

- e) All purchases over \$250,000 shall be reported to Council quarterly.
- 4) All standardization approvals shall remain in effect until the approved standard becomes redundant or is superseded by new technology or processes. At which time a new standardization approval shall be sought.

SCHEDULE "H"

SINGLE OR SOLE SOURCED PROCUREMENT PROCEDURES

- 1) In certain infrequent and/or unique circumstances, the Corporation will not have the ability to go through a competitive process for its procurement activity. This section covers non-competitive purchasing when Staff go directly to one supplier to meet the requirements of the procurement.
- 2) In specific reference to Schedule H, there are two main types of direct awards:
 - a) Single Sourcing is the use of a non-competitive procurement process to acquire goods, services or construction from a specific supplier even though there may be more than one supplier capable of delivering the same goods, services or construction.
 - b) Sole Sourcing means the use of a non-competitive procurement process to acquire goods or services where there is only one available supplier for the source of the goods or service.

3) SINGLE SOURCING:

Allowable exceptions for competitive procurements include:

- a) Where an unforeseen situation of urgency exists and the goods, services or construction cannot be obtained by means of open procurement procedures. Where a non-competitive procurement is required due to an urgent situation, the Director may conduct the procurement upon obtaining the appropriate approvals provided that the urgency has been justified in writing, for emergency purchases see Schedule I;
- b) When due to market conditions, required supplies or services are in short supply, or when urgent acquisition of required supplies or services is necessary due to unexpected circumstances;
- c) When there is merit in purchasing at a public auction;
- d) When there is a strong business case to extend a contract beyond its initial term, such as when additional work is required that pertains to a current or recently completed project;
- e) When the project is a pilot with the understanding that, if successful, further work shall be subject to a tender process;

- f) When required supplies shall be compatible with equipment presently being used, see also Schedule G, Standardization;
- g) When the nature of the assignment is confidential and disclosure to several bidders is inappropriate;
- h) When all tenders or bids received are non-compliant or fail to meet specifications or terms and conditions, and it is impractical to recall tenders or quotations.

4) **SOLE SOURCING**

- a) In accordance with the Agreement on Internal Trade (AIT), in a situation where only one supplier is able to meet the requirements of a procurement, the Director may use procurement procedures that differ from those in Schedules C through G of this by-law in the following circumstances:
 - i) To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licences, copyright and patent rights, or to maintain specialized products that shall be maintained by the manufacturer or its representative;
 - ii) Where there is an absence of competition for technical reasons and the goods or services can only be supplied by a particular supplier and no alternative or substitute exists;
 - iii) For the procurement of goods or services, the supply of which is controlled by a supplier that is a statutory monopoly;
 - iv) For the purchase of goods on a commodity market;
 - v) For work to be performed on or about a leased building or portions thereof that may be performed only by the leaser;
 - vi) For work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
 - vii) For a contract to be awarded to the winner of a design contest;
 - viii) For the procurement of a prototype or a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases;
 - ix) For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases;

- x) For the procurement of original works of art;
 - xi) For the procurement of real property.
- 5) In sole or single source situations as noted above, the Director shall provide a full written report with rationale for sole or single sourcing the award and seek authorization as noted below.
- 6) The Agent shall be involved in any negotiated contracts for supplies and/or services and any agreements resulting from such negotiations may only be executed by the Agent on behalf of the Corporation or by the Mayor and Clerk in accordance with Section 29 of the By-law.

APPROVAL AUTHORITIES:

Total Purchase Amount	Delegated Purchasing Authority level
<\$25,000	Director
\$25,000 - \$250,000	Commissioner
> \$250,000	CAO

The Director shall prepare a Single/Sole Source award report. All reports shall be addressed to the Manager of Purchasing (Agent), and shall follow the report template provided.

The Treasurer shall approve all reports, upon review by the Financial Analyst to confirm budget availability.

All reports shall be forwarded to the Manager of Purchasing, once departmental approvals are obtained. Purchasing will circulate and track other required approvals.

All purchases over \$250,000 shall be reported to Council quarterly.

SCHEDULE "I"

EMERGENCY PURCHASING PROCEDURES

- 1) When an event occurs that is determined by the Chief Administrative Officer, Commissioner or a Director to be a threat to public health, the maintenance of essential Corporation services, the welfare of persons or of public property, the protection of the Corporation's physical assets, or the security of the Corporation's interests or financial liabilities arising from unexpected conditions, and the occurrence requires the immediate delivery of supplies or services and time does not permit the issuance of competitive bids to acquire such supplies and services, the Director may make such purchases without the involvement of the Agent and/or tendering process, and is authorized to do so in the most expedient and economical means possible.
- 2) Where a purchase has been made under Section (1) above, the Director shall submit a report to the Agent detailing the cause of the emergency and the action taken to resolve the emergency. The Director shall use the Single/Sole Source report template to facilitate this requirement. The report shall be submitted for approvals within two working days following the resolution of the emergency and shall seek authorization as noted below.

APPROVAL AUTHORITIES:

Total Purchase Amount	Delegated Purchasing Authority level
\$5,000—<\$50,000	Director
\$50,000—\$250,000	Commissioner
> \$250,000	CAO

The Treasurer shall approve all reports, upon review by the Financial Analyst to confirm budget availability.

All reports shall be forwarded to the Manager of Purchasing and Risk Management, once departmental approvals are obtained. Purchasing will circulate and track other required approvals.

All purchases over \$250,000 shall be reported to Council quarterly.

SCHEDULE “J”

ENVIRONMENTAL SOURCING AND PROCUREMENT

- 1) Staff are encouraged to consider environmentally responsible and sustainable products and services as part of their purchasing decisions under the Environmental Sustainability Policy, EN-GEN-001, the Sustainable Green Fleet Procedure, EN-GEN-001-001, the Sustainable Purchasing Procedure, EN-GEN-001-002 and other approved and relevant corporate policies and procedures as they are developed. The objectives of environmental sourcing are to:
 - a) Provide an environmental role model for public procurement by making it a priority to use environmentally responsible products and services, where feasible and cost effective;
 - b) Support a healthier working environment for employees and for citizens in general through the purchase of environmentally preferable goods and services;
 - c) Increase demand for environmentally responsible products and services, which may ultimately enhance quality and cost competitiveness; and
 - d) Increase the conservation of resources through the use of more reusable products, and/or products and services that require less energy and materials to produce or use.
- 2) The procurement needs of the Corporation represent a significant level of responsibility to demonstrate leadership and support for greener business practices. Integrating environmental performance and impact into supply chain decisions is a commitment to improvement of the environment and the quality of life of Town residents. Guidance on sustainable purchasing decision-making can be found in the town’s Sustainable Purchasing Handbook.
- 3) Green procurement shall be viewed in the context of achieving value for money for the total life-cycle costs. It requires the inclusion of environmental impact considerations into the procurement process, including planning, acquisition, use and disposal. Value for money shall include the consideration of many environmental tangible and intangible factors when determining the total life-cycle costs and environmental impact.

- 4) The factors noted above require an understanding of the environmental aspects and potential impacts associated with the life-cycle assessment of goods and services being acquired. The life-cycle approach shall examine costs beyond the up-front acquisition cost of goods or services, such as costs associated with operating, maintaining and disposing of the goods. Environmental considerations include, among other things: the reduction of greenhouse gas emissions and air contaminants; improved energy and water efficiency; reduced waste and support of reuse and recycling; the use of renewable resources; reduced hazardous waste; and reduced toxic and hazardous substances.
- 5) Assessment of life-cycle costs will commonly require input from a broad range of sources including program managers, project authorities, procurement authorities, operational users, environmental and disposal experts, cost accountants and financial management advisor, and standards organizations. Dialogue with the supplier community can also be useful to find out what is available and to inform the market of future requirements. Care should be taken not to distort competition — this process should not give any advantage to particular suppliers.
- 6) Activities to support green procurement should be incorporated during each stage of the procurement process. The following table outlines opportunities to integrate such considerations:

Recommended Framework: Green Procurement Considerations

Procurement Step	Traditional Focus Areas	Green Focus Areas
Step 1 Assess Opportunity	Spend analysis focuses primarily on materials and logistics costs	Spend analysis encompasses direct and indirect environmental costs (e.g., energy consumption, disposal, packaging waste, water)
Step 2 Assess Internal Supply Chain	Specification focused, map current process and identify process opportunities	Specification review and design considers industry's environmentally sound products and services
Step 3 Assess Supply Market	Identify potential sources of supply and perform supplier assessments/comparisons	Supply base includes suppliers who specialize in more efficient and sustainable products (e.g., possible commodity substitutions and new manufacturing processes)
Step 4 Develop	Confirm scope, determine desired outcomes and	Sustainability considerations and criteria are specified in the RFP

Procurement Step	Traditional Focus Areas	Green Focus Areas
Sourcing Strategy	brainstorm process enhancement	document (e.g., energy, disposal, water usage costs may be solicited from suppliers for analysis)
Step 5 Implement Strategy	Develop/implement supplier solicitation strategy, conduct supplier negotiation and award contract	Bid analysis quantifies cost/benefits of sustainability attributes (e.g., energy consumption, carbon footprint or waste)
Step 6 Institutionalize Strategy	Transition to new process, develop supplier relationships, implement operation changes and monitor/report performance	Sustainability attributes closely tracked and audited

- 7) Procurement measures such as purchasing environmentally responsible products and supplies as well as adopting pollution prevention criteria when purchasing goods, services and construction are examples of initiatives to advance sound environmental management for organizational operations. Other examples of green procurement would include identifying or sourcing products and services that:
- a) Make efficient use of natural resources including land, air, energy and water;
 - b) Minimize waste by limiting purchases and packaging while increasing our waste diversion rates;
 - c) Are made of high quality materials that can be repaired or upgraded;
 - d) Minimize toxicity;
 - e) Are made from renewable or recycled materials;
 - f) Contain reusable parts or reusability;
 - g) Protect indoor and outdoor air quality.
- 8) The Agent and the Director shall be in a position to demonstrate value for money in awarding the contract, i.e., the contract should be awarded to the proponent offering the best combination of costs, quality and performance to meet that requirement over its life cycle. The requirement for environmentally friendly products should also be tested for need, affordability and cost-effectiveness in the context of the Corporation's Green Procurement mandate and overall program objectives.
- 9) A clear definition of the technical requirements including the environmental outcomes to be achieved, terms and conditions, including environmental terms

such as use of certified recyclers, mandatory requirements and bid evaluation criteria, as applicable, as well as the contractor selection methodology, shall permit the award of a contract that supports value-for-money propositions.

- 10) Staff is encouraged to familiarize themselves with environmental certification labels such as Ecologo and ENERGY STAR®. Additional information regarding purchasing environmentally preferable goods and services for the Town of Oakville can be found in the Sustainable Purchasing Handbook or at <http://portico/DepartmentsR/Environment%20portal/SustainablePurchasing/default.aspx>.

SCHEDULE "K"

DEVELOPMENT OF SPECIFICATIONS

- 1) The preparation of the Specifications for Request for Quotations, Request for Proposals or Request for Tenders shall be the responsibility of the relevant Director. Specifications shall be approved by the Director and the Project Manager appointed to the project, prior to being forwarded to the Agent for use in a competitive process.
- 2) The Agent shall have the authority to review and recommend improvements to the Specifications when deemed necessary. The Project Manager shall cooperate with the Purchasing Division in the finalization of the Specifications. The Agent may reject any Specification not consistent with the Purchasing Policy.
- 3) The Agent may issue a Request for Information (RFI). A RFI can be used to determine if there is sufficient vendor interest to justify proceeding with a competitive procurement process and/or to gain additional information on the Good and/or Service from the vendor community. The RFI would request detailed information such as, but not limited to, the background of the vendor and its key personnel, relevant experience, and what the vendor can offer the Corporation. Any resulting competitive procurement process shall be issued in accordance with this by-law
- 4) The following requirements shall be followed in the preparation of the Specifications:
 - (a) Specifications should be detailed but not brand specific to leave room for potential vendors to provide alternatives in the event an equal or better-proven product or method is available to maintain a competitive procurement process.
 - (b) Where the Specifications requirements of the Client Department will result in a single source purchase, it shall be at the discretion of the Agent whether to authorize such Specifications or to require the Client Department to seek approval for such Specifications through the Single Source process addressed in Schedule H.

- (c) Vendors may be requested to expend time, money or effort on the content or in the development of Specifications or otherwise help define a requirement to be contained in the Specifications or RFQ, RFP or RFT. A vendor who provides such assistance shall be deemed a consultant of the Corporation, paid a fee and shall be unable to submit a Bid for which the Specifications apply unless exemption is requested and submitted prior to the issuance of the RFQ, RFP or RFT and written approval is given by the Agent in accordance with the Conflict of Interest provisions within Schedule L of this by-law.
- (d) Notwithstanding any assistance in the preparation of the Specifications by a consultant or vendor, the Specifications shall be and remain the property of the Corporation.
- (e) Where it is not possible to prepare precise Specifications to issue a Request for Tender, a Request for Proposals shall be issued. The Purchasing Division, in cooperation with the Client Department, shall prepare evaluation criteria and weightings for the criteria. The Request for Proposal shall clearly distinguish those requirements that are deemed mandatory and non-mandatory and shall clearly outline how these items shall be evaluated.
- (f) When preparing the Specifications, the Client Department shall be knowledgeable of the *Ontarians with Disabilities Act 2001*, S.O. 2001, c. 32, the *Accessibility for Ontarians with Disabilities Act 2005* and its regulations and the Town of Oakville 2008 Guidelines for Design of Accessible Facilities or the most recent version and apply those requirements with respect to procuring Goods and/or Services and in the development of the Specifications.
- (g) When preparing the Specifications, the Client Department shall consider the amount of packaging that would be associated with the procurement of a Good. If the required level of packaging is felt to be too excessive, then the Specifications for those Goods shall require the vendor to be responsible for and bear the cost for the removal and disposal of the packaging materials.
- (h) Where the Specifications relate to the procurement of sustainable products addressed under the Green Procurement Policy they shall be approved by the Director of Environmental Policy to ensure that they meet the requirements of said policy.

- (i) When preparing specifications, the Client Department shall consider environmentally sustainable products as a first priority (See also Schedule “J”). When considering applicability of products or services, staff shall consider the following and determine if the product or service will accomplish some or all of the following criteria;
1. make efficient use of natural resources
 2. minimize waste
 3. minimize toxicity
 4. give preference for high quality materials that can be repaired or upgraded
 5. use renewable or recycled materials
 6. contain reusable parts or reusability
 7. protect indoor and outdoor air quality.

SCHEDULE "L"

CONFLICT OF INTEREST

- 1) Staff involved in procurement activities with suppliers and consultants shall implement provisions that:
 - a) Adhere to the definition of Conflict of Interest included in this by-law and the requirements of the Town's Code of Conduct for emphasis and clarity
 - b) Reserve the right of the Agent to solely determine whether any situation or circumstance constitutes a conflict of interest;
 - c) Reserve the right of the Agent to disqualify prospective suppliers or consultants from a procurement process due to a conflict of interest;
 - d) Require prospective suppliers or consultants participating in a procurement process to declare any actual or potential conflict of interest;
 - e) Require suppliers or consultants to avoid any conflict of interest during the performance of their contractual obligations for the Corporation
 - f) Require suppliers or consultants to disclose any actual or potential conflict of interest arising during the performance of an agreement;
 - g) Reserve the right of the Corporation to prescribe the manner in which a supplier or consultant should resolve a conflict of interest;
 - h) Allow the Corporation to terminate an agreement where a supplier or consultant fails to disclose any actual or potential conflict of interest or fails to resolve its conflict of interest as directed by the Corporation and
 - i) Allow the Corporation to terminate an agreement where a conflict of interest cannot be resolved.
- 2) Staff shall be aware of the conflict of interest created when a supplier or consulting organization is involved in the development of the competitive documents or is involved in a study that will lead to a requirement for development of competitive documents and also has the ability to fulfill the procurement needs that are being contemplated in those competitive documents.
- 3) Staff shall be very clear and insist on documented agreements that any supplier or consultant involved in developing the competitive documents or studies affecting competitive documents cannot be involved in the creation of the response to those competitive documents.
- 4) Directors shall also consider that there may be conflicts of interest where their own employees, advisors or members of Council may be involved. When involved in a competitive bidding process, including Requests for Proposal, employees, advisors or members of Council are expected to declare a conflict of interest and

the Agent shall request that a conflict-of-interest declaration be signed. The employee, advisor or member of Council is ultimately responsible and accountable for using good judgment in the exercise of the Corporation's duties and shall:

- a) Disclose conflicts of interest to the Agent or his or her department supervisor or designate in writing; and
 - b) Avoid situations that may present conflicts of interest while dealing with persons or organizations doing business or seeking to do business with the Corporation.
- 5) Situations that might result in a conflict of interest include the following:
- a) Engaging in outside employment;
 - b) Not disclosing an existing relationship that may be perceived as being a real or apparent influence on their objectivity in carrying out an official role;
 - c) Providing assistance or advice to a particular supplier participating in a competitive process;
 - d) Having an ownership, investment interest, or compensation arrangement with any entity participating in a competitive process;
 - e) Having access to confidential information; and
 - f) Accepting favours or gratuities from those doing business with the organization.
- 6) Directors shall consider situations where there may be an employee or advisor conflict of interest and those situations shall be dealt with accordingly.
- 7) In addition to the situations that might result in a conflict of interest for all employees and advisors, the Agent shall be aware of and identify any additional conflicts of interest that may arise as a result of evaluation team members participating in the selection of products or services. The evaluation team members shall sign a conflict-of-interest and non-disclosure agreement before each evaluation.

SCHEDULE “M”

PREQUALIFICATION PROCEDURES

- 1) The purpose of a Prequalification is to gather information on supplier capabilities and qualifications, with the intention of creating a list of pre-qualified suppliers or consultants. This mechanism may be used either to identify qualified candidates in advance of expected future competitions or to narrow the field for an immediate need. The purpose of this process is to reduce subsequent effort devoted to the competitive process (i.e., bid preparation on the part of suppliers or consultants and evaluation on the part of the Corporation), as detailed further here:
 - a) A Prequalification can be used to understand which potential proponents have the capabilities that the Corporation requires, as the first stage in a two-stage solicitation (followed by either a Request for Proposal or a Request for Tender), whereby only pre-qualified suppliers or consultants shall be invited to respond to the actual competition. This can make the number of responses and the evaluation process more manageable for the evaluators, while allowing unqualified proponents to avoid the effort and expense of preparing a complete competitive response.
 - b) A Prequalification can be used to pre-qualify suppliers or consultants who are interested in supplying materials or services in the future — if, as and when requested. The typical result of this procedure is a Vendor of Record (VOR) or a preferred suppliers list.
- 2) A Prequalification document should specifically define the type of materials or services included as part of the process, and set upper limits to the value of future awards. The Prequalification document should also clearly indicate the time duration the list of prequalified vendors is to be valid, the method(s) by which suppliers can be placed on the list, and at what specific intervals opportunities for being qualified will come up. The document should also indicate that suppliers who do not participate in the pre-qualification or do not appear on the list may be excluded from opportunities. If the VOR or preferred suppliers list is to be used for procurements over \$100,000, a supplier that meets the conditions for registration on the list shall be able to register at any time.
- 3) It is recommended that various windows of opportunity through-out the period of prequalification or VOR be provided for new and/or local vendors to be able to apply to qualify.

- 4) A VOR or preferred suppliers list may follow a number of formats, each to be determined based on the requirements to be fulfilled and the type of procurement to follow, with the intent of facilitating one or more potential supplier selection processes, but in all cases shall be used according to procedure, as outlined in the advertised Request for Prequalification document. Typical pre-qualified supplier lists for future opportunities, can be segmented by consulting or contracting discipline, contain a ranked list of suppliers, or simply contain supplier names.
- 5) The Agent shall ensure that the terms and conditions built into the Request for Prequalification contain specific language to disclaim any obligation on behalf of the Corporation to actually call on any supplier as a result of the pre-qualification to supply such materials or services

No Contract A (bid contract) or Contract B (performance contract) shall be formed between the Corporation and the pre-qualified suppliers as part of this process.