



## POLICY & PROCEDURE MANUAL

<b>SECTION</b>	COUNCIL RELATED POLICIES	<b>POLICY NUMBER</b>	3-8-01
<b>SUB-SECTION</b>	PROCUREMENT AND DISPOSAL OF GOODS	<b>EFFECTIVE DATE</b>	July 14, 2017
<b>SUBJECT</b>	Procurement of Goods and Services and the Disposal of Surplus Goods		
<b>AUTHORITY</b>	General Government Services – June 28, 2017 County Council – July 13, 2017 General Government Services – October 24, 2024 Council – November 14, 2024		

### PURPOSE:

To establish by by-law, the procedures of the Procurement of Goods and Services and the Disposal of Surplus Goods.

### STATEMENT:

By-law 2024-52 shall govern all procedures of the Procurement of Goods. This By-Law repeals By-law 2017-33.

### PROCEDURE:

The procedures to be followed are contained in By-law 2024-52. Copy attached.

# **CORPORATION OF THE COUNTY OF DUFFERIN**

## **BY-LAW NUMBER 2024-52**

### **A BY-LAW TO ESTABLISH POLICIES FOR THE PROCUREMENT OF GOODS AND SERVICES AND TO REPEAL BY-LAW 2017-33.**

WHEREAS the Municipal Act 2001, S.O. 2001, c. 25, Section 270 requires all municipalities and local boards to adopt and maintain a policy concerning the procurement of goods and services;

AND WHEREAS the Council of the Corporation of the County of Dufferin ("County") is committed to ensuring that its procurement decisions are fair, open and transparent;

AND WHEREAS the County should reflect best value for the taxpayer, protect the County's financial interests and encourage competitive bidding;

AND WHEREAS the County must be prepared to manage extraordinary circumstances from time to time, and that such circumstances may require immediate procurement decisions that are necessary to prevent or alleviate serious delay, a threat to public health, safety or welfare, the disruptions of essential services or damage to public property or to respond to any emergency;

AND WHEREAS effective planning, monitoring and control of public sector procurement are essential for maintaining public trust and confidence;

AND WHEREAS this Procurement By-Law is designed to work in conjunction with "best practices" Procurement Procedures, which are administratively held and managed by staff as approved by the CAO.

BE IT ENACTED BY THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE COUNTY OF DUFFERIN AS FOLLOWS:

#### **1. DEFINITIONS AND INTERPRETATION**

Words and phrases used in the Procurement By-Law for the County have the meanings outlined in Section 1. Definitions of the Procurement Procedures and Guidelines, unless expressly stated otherwise.

#### **2. PURPOSES OF THIS BY-LAW**

The purposes of this By-Law are:

- 2.1. To express the County's goals and objectives in relation to its procurement of goods, services and construction;
- 2.2. To describe the roles, responsibilities and authorities of the County's employees, officers and elected officials in carrying out the County's procurement operations; and
- 2.3. To extend authority to the CAO for the approval of detailed procurement procedures and protocols that are consistent with the intent of this By-Law and, to supplement and amend those procedures and protocols as and when deemed necessary, to meet the present and future needs of the County.

### **3. APPLICATION**

- 3.1. This By-Law applies to all elected officials, committee members and staff of the County, as it applies to the procurement of goods, services and/or construction. Procurements includes the acquisition of goods, services and/or construction by purchase, rental or lease, except for those items set out in Schedule "D".
- 3.2. In addition to the items set out in Schedule "D", this By-Law does not apply to:
  - a. Contracts or agreements relating to hiring employees or employee compensation or reimbursement of employee expenses; or
  - b. Contracts or agreement for the sale, purchase, lease or license of land or existing buildings.
- 3.3. In addition to this By-Law, the County has procedures, guidelines, templates and forms for use during the procurement cycle. All tools for engaging in procurement activity will be maintained and updated by the Procurement Services Department as required.

### **4. PROHIBITIONS**

The following activities are prohibited, unless specifically approved by Council:

- a. Subdividing, splitting, separating or otherwise structuring procurement requirements or Contracts in any way that could circumvent the requirements or intent of this By-Law.
- b. Procurement by the County of any goods, services or construction for personal use by or on behalf of any member of Council, appointed officer, employee of the County or their immediate families.
- c. Acceptance of any gift, benefit, money, favour, hospitality or other assistance

from any Supplier or potential Supplier.

- d. Negotiating with a Supplier, or accepting an offer from a Supplier, to purchase goods, services or construction for personal use at the same price that is being offered by the Supplier to the County.
- e. Asking a Supplier to alter the invoice date or shipping date from what would otherwise be shown to accommodate County accounting needs.
- f. Procurement by the County of any goods, services or construction from members of Council, appointed officers, employees of the County or their immediate families.

## **5. PROCUREMENT GOALS AND OBJECTIVES**

The goals and objectives of this By-Law are:

- 5.1. To procure by purchase, rental or lease the required quality and quantity of goods, services and/or construction, including professional and consulting services, by promoting an open, fair, and transparent competitive process in an efficient and cost-effective manner while maintaining budgetary control and protecting the best interests of the County;
- 5.2. To encourage open, fair, and transparent competitive process for the acquisition and disposal of goods and services and to obtain the best value for the County;
- 5.3. To consider all costs and factors, including, but not limited to, acquisition, operating, training, maintenance, quality, warranty, payment terms, disposal values and disposal costs, in evaluating bid submissions;
- 5.4. To give full consideration to the annual aggregate value or to consider the total project cost of specific goods, services and/or construction that will be required by each Department and by the County as a whole prior to determining the appropriate acquisition method;
- 5.5. To conduct centralized procurement through Procurement Services;
- 5.6. To encourage the purchase of goods, services, and construction with due regard to the preservation of the natural environment; Vendors may be selected to supply goods made by a method resulting in the least damage to the environment and to encourage vendors to supply goods incorporating recycled materials where practicable;
- 5.7. Develop and maintain a Social Procurement culture that leverages procurement to

contribute to Social Value Objectives. This will be done in accordance with the values of our community and Council and aligns with the County's strategic goals and plans;

- 5.8. Practice Sustainable Procurement of goods, services, and/or construction with due regard to environmental stewardship and balancing prosperity, well-being, and nature;
- 5.9. To avoid real and perceived conflicts between the interests of the County and those of the County's employees, elected officials, and committee members; and
- 5.10. To ensure compliance with all applicable trade agreements, laws and regulations. If inconsistencies exist between this By-Law and applicable legislation, the applicable legislation shall prevail.

## **6. PURCHASING PRINCIPLES**

### **6.1. General Principles**

In order to ensure that integrity is maintained in the procurement process, and to protect the interests of the County, the public and persons participating in a procurement process, the following general principles shall be adhered to for any procurement:

### **6.2. Open Process**

Requirements are clearly communicated to Bidders. The method of evaluating the Bid and the evaluation criteria used to evaluate the Bid, and the method and format of submitting Bids, are clearly addressed in the Bid Solicitation document.

### **6.3. Fairness**

Standard documents such as Bid Solicitation templates and standard term contracts, are used, to ensure consistency of content and format within documents issued by the County. All details regarding the procurement process are clearly specified in the Bid Solicitation, and the rules of bid acceptance are applied consistently. All Bidders and all Bids are treated equally and without bias or favouritism.

### **6.4. Accessibility**

Specification and terms of reference, whenever possible, are not restrictive and allow for an open competition from the marketplace. Where possible, Bid Solicitations are advertised on the County's website or through online portals that aid in connecting Suppliers with the County, and where practical, the documents are available for downloading.

When preparing the specifications, the originating Department shall consider the requirements of the Ontarians with Disabilities Act 2001, as amended, and the Accessibility of Ontarians with Disabilities Act 2005, as amended, and apply those requirements with respect to procuring goods, services and/or construction and in the development of specifications.

#### 6.5. Accountability

All Bids are kept secure prior to the closing date, during the evaluation period, and following the award of the Contract. All proprietary information and Bids submitted in confidence are handled in accordance with the Municipal Freedom of Information and Protection of Privacy Act ("MFIPPA"), as amended, or applicable legislation.

When practicable, Bids are evaluated by representatives from more than one Division or Department to allow for various perception and opinions when reviewing and evaluating Bids prior to award of the Contract. All Bids rating results and related supporting documentation are kept on file in accordance with the County's Records Retention Policy for future reference, audit, or examinations. Procurement procedures are reviewed on a regular basis to ensure procedures are clear, logical, current, and in accordance with accepted industry standards.

#### 6.6. Sustainable Procurement

The County is committed to purchasing environmentally friendly goods and services with due regard to the protection of the environment and public health, conservation of natural resources, reduction of toxicity, and the minimization of waste. All departments, in conjunction with Procurement Services, will seek additional ways of achieving the goal of environmental stewardship and responsibility through review of each procurement process to ensure that wherever possible and economically feasible, specifications/terms of reference provide for:

- Expanded use of goods, services and/or construction that contain post-consumer recyclable content to the maximum level allowable, without significantly affecting the intended use or performance of the goods, services and/or construction;
- Consideration of products, certified by an independently accredited organization, that prevent the over consumption of energy and other resources and reduces the production of waste, and the release of substances harmful to the environment and/or public health;
- Consideration of products certified by an independently accredited organization, which favour environmentally benign, post-consumer, bio-degradable, and non-

toxic ingredients;

- Consideration of Total Cost of Ownership and the process by which products are manufactured, operated, transported, stored, packaged and the method of disposal;
- Consideration of energy efficiency and water conservation where applicable; and
- Consideration of Leadership in Energy and Environmental Design (LEED) for new buildings and renovations.

## **7. COUNTY'S CONDUCT AND CONFLICTS OF INTEREST**

- 7.1. The County's procurement activities must be conducted with integrity so as to maintain the public's trust. All procurement activities undertaken by the County must be conducted in accordance with:
- a. The County's Council and Committee Member Code of Conduct, as applicable;
  - b. The County's Employee Code of Conduct, as applicable;
  - c. The Statement of Ethics for Public Purchasers in schedule "A" of this By-Law; and
  - d. The Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50, as applicable.
- 7.2. All participants in a procurement process, including any external consultants or other service providers acting on the County's behalf, must declare any perceived, possible or actual conflicts of interest.
- 7.3. No purchase will be process for personal items of direct benefit to officers or employees of the County or any member of Council except where permitted by policy, or with the prior approval of the CAO.
- 7.4. No goods, services or construction will be purchased from any officer or employee of the County, or any associate or family member of an officer or employee, unless the extent of the interest of such individual has been fully disclosed to the Procurement Manager and the purchase has been subsequently approved by the CAO.

## **8. SUPPLIER'S CONDUCT AND CONFLICTS OF INTEREST**

- 8.1. The County expects its suppliers to act with integrity and conduct business in an ethical manner.
- 8.2. The County may refuse to do business with any supplier that:

- a. Has engaged in illegal or unethical bidding practices;
  - b. Has an actual or potential conflict of interest;
  - c. Has an unfair advantage in the procurement process; or
  - d. Fails to adhere to ethical business practices.
- 8.3. All suppliers participating in a procurement process must declare any perceived, possible or actual conflicts of interest.
- 8.4. Where a supplier is retained to participate in the development of a solicitation document or the specifications for inclusion in a solicitation document, that supplier will not be allowed to respond, directly or indirectly, to that solicitation document.
- 8.5. Illegal or unethical bidding practices include:
  - a. Bid-rigging, price-fixing, bribery or collusion or other behaviours or practices prohibited by federal or provincial statutes;
  - b. Attempting to gain favour or advantage by offering gifts or incentives to County officers and employees, members of Council or any other representative of the County;
  - c. Lobbying members of Council or County officers and employees or engaging in any prohibited communications during a procurement process;
  - d. Submitting inaccurate or misleading information in response to a procurement opportunity; and
  - e. Engaging in any other activity that compromises the County's ability to run a fair procurement process.
- 8.6. The County will report any suspected cases of collusion or other bid-rigging offences under the Competition Act to the Competition Bureau or to other relevant authorities.
- 8.7. In providing goods, services or construction to the County, suppliers are expected to adhere to ethical business practices, including:
  - a. Performing all County contracts in a professional and competent manner and in accordance with the terms and conditions of the contract;
  - b. Complying with all applicable laws, including safety and labour codes (both domestic and international as may be applicable);



- c. Ensuring that fair wages are paid to suppliers' employees; and
- d. Providing workplaces that are free from harassment or discrimination of any kind.

## **9. SEPERATION OF ROLES AND THE ROLE OF COUNCIL**

- 9.1. In accordance with best practices in municipal procurement, Council recognizes the need for clear separation of political and administrative functions in relation to the County's procurement operations. It is the role of Council to establish policy and to approve expenditures through the County's budget approval process. Through this By-Law, Council delegates to the County's officers and employees the authority to incur expenditures in accordance with approved budgets through the procurement of goods, services and construction in accordance with the rules and process set out in this By-Law.
- 9.2. To avoid the potential appearance of bias or political influence in procurement contract award decisions, members of Council will have no involvement in competitive procurement processes from the time those procurement processes have been initiated through the advertisement or issuance of the solicitation document until a contract has been entered into with the successful bidder, except where Council is required to approve the contract award.

## **10. ROLES, RESPONSIBILITIES AND AUTHORITIES**

- 10.1. Specific responsibilities pertaining to all stages of a procurement process, from the initial identification of requirements through to the management of contracts with suppliers, are detailed in the By-Law and the County's procurement procedures and guidelines. In addition to those specific responsibilities, the general roles and responsibilities delegated to the County's officers and employees are set out below.

### **10.2. Chief Administrative Officer (CAO)**

It is the role of the CAO to implement and promote this By-Law and oversee the conduct and activities of the County's employees in carrying out the County's procurement operations. In fulfilling this role, the CAO is responsible for:

- a. Approving procurement procedures and guidelines, as developed and recommended by the Procurement Manager;
- b. Providing support and guidance to the Procurement Manager and the Procurement Review Committee, as required;

- c. Ensuring compliance with this By-Law and reporting serious or repetitive incidents of non-compliance to Council, as warranted; and
- d. Submitting recommendations and reports to Council, as required under this By-Law.

### 10.3. Procurement Manager

It is the role of the Procurement Manager to lead the County's procurement operations. In fulfilling this role, the Procurement Manager is responsible for:

- a. Researching developments in Canadian public procurement requirements and best practices and recommending updates to this By-Law and the County's procurement procedures and guidelines to reflect such developments and support the County's procurement goals and objectives.
- b. Providing procurement advice and related services, including developing and maintaining the necessary forms, contracts, and solicitation document templates, for the purposes of fulfilling the procurement needs of the County.
- c. Developing procurement strategies and continual analysis of the County's business requirements and spending patterns to identify opportunities for more strategic sourcing, including:
  - i. The standardization of goods and service(s) in conjunction with departments, where appropriate and feasible; and
  - ii. The consolidation of all similar goods and service(s) where appropriate and possible.
- d. Ensuring the consistent application of procurement procedures and guidelines and providing procurement services in an efficient and diligent manner.
- e. Addressing and, where possible, resolving issues or concerns that arise in respect of a procurement process or the application and interpretation of this By-Law and the County's procurement procedures and guidelines and seeking guidance and advice from SMT, CAO and/or external legal counsel, as required.
- f. Referring unresolved issues or concerns raised by the County's officers or employees to the CAO, as necessary.

- g. Referring unresolved complaints from bidders or proponents to the Procurement Review Committee, as necessary, where required in accordance with applicable procedures and guidelines.
- h. Ensuring compliance with this By-Law and reporting non-compliance, in writing, to the appropriate Department Head and/or the CAO where warranted.
- i. Responsible for the administration of this By-Law, including the development and implementation of procedures and guidelines.
- j. Prepare and provide reports to Council, as they relate to procurement activities conducted by the County.

#### 10.4. Director of Corporate Services

The Director of Corporate Services is responsible for overseeing the Procurement Services Department and providing support and guidance to the Procurement Manager, as required.

#### 10.5. Directors and Department Managers/Heads

It is the role of the Departments, County Administration, and Staff to ensure that their requirements of goods, services and construction are met in accordance with the goals and objectives of this By-Law. In fulfilling this role, Directors and Department Managers/Heads, or their designates, are responsible for:

- a. Exercising their authority for all procurement activity within the prescribed limits of this By-Law;
- b. Delegating authority approval limits and their designates, to staff in compliance with this By-Law and all applicable procedures and guidelines;
- c. Ensuring that all procurement activities and decisions are authorized by this By-Law and are carried out in accordance with the County's procurement procedures and guidelines;
- d. Monitoring all contract expenditures to ensure compliance with financial limits;
- e. Identifying and addressing non-compliance with this By-Law and applicable procedures and guidelines within their divisions/departments; and
- f. Upon discovery of instances of non-compliance, notifying the Procurement Manager and consulting with the CAO and/or external legal services, as warranted,

to obtain advice with respect to mitigating potential risks to the County arising from the non-compliance.

10.6. Procurement Services Employees:

Employees of the Procurement Services Department are responsible for complying with this By-Law and ensuring all procurement procedures and guidelines are applied consistently. Procurement Services Department employees must clearly understand their obligations and responsibilities under this By-Law and all applicable procedures and guidelines, and should consult with the Procurement Manager in respect of any questions regarding the application or interpretation of this By-Law or the procurement procedures and guidelines.

Procurement Services Department employees are expected to provide procurement services to Departments in an efficient and diligent manner, and are encouraged to develop and foster productive and cooperative professional relationships with their colleagues in Departments.

10.7. Department Employees

Employees of all Departments are responsible for complying with this By-Law. Department employees involved in procurement activities must clearly understand their obligations and responsibilities under this By-Law and all applicable procedures and guidelines, and should consult with the Procurement Department in respect of any questions regarding the application or interpretation of this By-Law or the procurement procedures and guidelines.

Department employees involved in procurement activities are encouraged to develop and foster productive and cooperative professional relationships with their colleagues in the Procurement Department.

**11. PROCUREMENT REVIEW COMMITTEE**

11.1. The Procurement Review Committee will consist of the CAO, Procurement Manager and applicable Director and/or Department Manager/Head.

11.2. Where irregularities occur or complaints or challenges are made by bidders or proponents in respect of a procurement process, the Procurement Manager will review the matter and may consult with external legal services, where necessary. If the matter is not resolved, the Procurement Manager must refer the matter to the Procurement Review Committee, which will review the objective of presenting a solution, recommendation or otherwise resolving an issue.

## **12. STANDARD PROCUREMENT**

- 12.1. A standard procurement is the acquisition of goods, services and/or construction through the applicable process and method identified in Schedule B of this By-Law and described in the procurement procedures and guidelines. Depending on the type and value of the goods, services and/or construction required, standard procurement processes include:
- a. placing an order under an existing Supply Agreement
  - b. conducting a second-stage Request for Quote competition to solicit bids from suppliers on an existing Prequalified Supplier List;
  - c. making Low Dollar Value Procurements using a corporate purchasing card or the issuance of a purchase order;
  - d. conducting an Invitational Competition by soliciting bids from a minimum of three suppliers; or
  - e. conducting an Open Competition by publicly advertising and posting the solicitation document.
- 12.2. All standard procurement processes must be approved, conducted, and reported in accordance with this By-Law and all applicable procurement procedures and guidelines.

## **13. NON-STANDARD PROCUREMENT**

- 13.1. A non-standard procurement is the acquisition of goods, services and/or construction through a process or method other than the process or method normally required for the type and value of the required goods, service and/or construction, as identified in Schedule C of this By-Law and described in the procurement procedures and guidelines. Non-Standard procurement processes include:
- a. a Sole Source, where the goods, services and/or construction are available from only one Supplier; or
  - b. a Single Source, where the goods, services and/or construction are available from more than one source, however there is sufficient rationale for awarding to one particular Supplier.
- 13.2. The use of a non-standard procurement process is only permitted under the specific circumstances set out in Schedule C of this By-Law.

- 13.3. All non-standard procurement processes must be approved and conducted in accordance with this By-Law and all applicable procurement procedures and guidelines.

#### **14. EMERGENCY PURCHASES**

- 14.1. Notwithstanding any other provisions of this By-Law, goods, services and/or construction may be purchased on an emergency basis where they are required as a result of an unforeseeable situation or event.
- 14.2. An emergency includes:
- a. An imminent or actual danger to the life, health or safety of any person.
  - b. An imminent or actual danger of injury to or destruction of real or personal property.
  - c. An imminent or actual unexpected interruption of a public service essential to the community.
  - d. An emergency as defined by the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9 and the emergency plan formulated thereunder by the County.
  - e. An imminent or actual spill of a pollutant as contemplated by Part X of the Environmental Protection Act.
- 14.3. All emergency purchases are to be approved by the CAO and reported to the Procurement Manager and a purchase order issued as soon as reasonably possible.

#### **15. COOPERATIVE PROCUREMENT**

- 15.1. The County may take advantage of any provincial or federal agreements, or other Competitive Procurement process, where the Procurement Manager deems these opportunities to be in the best interest of the County.
- 15.2. The County may participate in cooperative purchasing initiatives with other public sector agencies where it is in the best interest of the County. The cooperative purchasing process may be conducted in accordance with the procurement policies and procedures of the entity that is responsible for coordinating and leading the process, provided that those policies and procedures are consistent with the County's obligations under applicable trade agreements and the County's procurement goals and objectives set out in this By-Law.

- 15.3. A list of agencies that the County participates with will be maintained on the County's Procurement webpage.

## **16. APPROVAL AUTHORITY**

### **16.1. Delegated Approval Authorities**

The Department Signing List controls signature authorization for all major financial transactions, including the approval to initiate procurements, award procurements, and approve Purchase Orders. The CAO, Director, and/or Department Manager/Head designates the individual(s) within the department who are granted signing authority as well as indicates the spending/approval limit. The Finance department will maintain the approval list, which is to be shared with Procurement Services.

Delegated authorities to award a contract and execute a legal agreement or issue a purchase order evidencing a contract are set out in the table in Schedule B of this By-Law. A contract must be established by the execution of a legal agreement and/or the issuance of a purchase order before the delivery of goods, services and/or construction commences.

### **16.2. Conditions of Delegated Approval Authorities**

The delegated approval authorities are subject to the following conditions:

- a. Ensuring that an approved budget exists for the proposed procurement and that such procurement does not violate any County By-Laws, Procedures and Guidelines or Legislation.
- b. No contract award may be approved unless approved funding amount is sufficient to cover the procurement value is available and the procurement process was conducted in accordance with this By-Law and all applicable procedures and guidelines.
- c. No contract may be entered into, either through the issuance of a purchase order or the execution of a legal agreement, unless approved funding in an amount sufficient to cover the procurement value is available and the procurement process was conducted in accordance with this by-Law and all applicable procedures and guidelines.
- d. The delegation of approval authority to approve a contract does not apply to a contract requiring Council approval under Section 19 of this By-Law.

## 17. **REQUIREMENTS FOR APPROVED FUNDS**

17.1. The beginning of the procurement process commences with the approval by Council of the operating and capital budgets for the County. Upon approval of these budgets, appropriate Approval Authorities, in accordance with section 16, have the authority to purchase Goods, Services and/or Construction.

17.2. Sufficient funds must be allocated for each acquisition in the appropriate accounts within the Council approved operating or capital budget prior to the Award and execution of the Contract.

### 17.3. Multi-Year Contracts:

Where certain Goods and Services are routinely purchased on a multi-year basis, the exercise of authority to award and execute such a contract is subject to the following:

- a. the identification and availability of sufficient funds in appropriate accounts for the current year within Council approved funds; and
- b. in the opinion of the Department Manager/Head that the requirement for the Goods or Services will continue to exist in subsequent years and the concurrence of the Treasurer that the required funding can reasonably be expected to be made available.

### 17.4. Acquisitions Outside of the Approved Budget:

- a. Acquisitions that are deemed by the Department Manager/Head to be necessary but are not in the approved capital budget must be approved by Council prior to the commencement of the solicitation process.
- b. Acquisitions that are deemed by a Department Manager/Head to be necessary but are not in the approved operating budget must be approved by Council prior to the commencement of the solicitation process if the Acquisition is over \$50,000.

### 17.5. Insufficient Budget at Time of Award of Solicitation:

In the event that the Bid that is recommended for Award exceeds the approved funds available, the County may pursue any of the following actions:

- a. Seek additional funds, as outlined in the Procurement Procedures and Guidelines.



- b. Award part of the Bid Solicitation.
- c. Negotiate, if the Bid Solicitation permits it.
- d. Cancel the Bid Solicitation.
- e. Materially revise the Bid Solicitation and issue the revised Bid Solicitation.

## **18. COUNCIL APPROVAL**

- 18.1. The following contracts require Council approval, unless approved in accordance with section 18.2:
- a. The award recommendation is not being made to the lowest compliant bidder or highest scoring proponent.
  - b. When a Non-Standard Procurement of \$50,000 or greater is being recommended.
  - c. There are Provincial or Federal government requirements for Council approval.
  - d. Where the Procurement By-Law is being waived.
  - e. Where there is an irregularity or unresolved challenge in connection with the procurement process and, in the opinion of the CAO, in consultation with the Procurement Manager and external legal, the award of the contract is likely to expose the County to legal, financial, or reputational risk.
- 18.2. Where necessary, the CAO is authorized to approve contracts normally subject to Council approval, as set out in section 18.1, during the time that regular Council meetings are suspended, provided that a repost is submitted to Council, as soon as reasonably possible, setting out the details of any contract approved pursuant to this authority.

## **19. IN-HOUSE BIDS**

The acceptance and Award of in-house Bids shall require the prior approval of Council and only be permitted where private sector vendors have also been given opportunity to submit Bids.

## **20. CONTRACT MANAGEMENT AND SUPPLIER PERFORMANCE**

- 20.1. All contracts must be managed by the respective Department in accordance with this By-Law and all applicable procedures and guidelines to ensure that both the County and

the Supplier fulfill the requirements of the contract. Department Managers/Heads must involve the Procurement Services Department in the management of contract disputes, as required by applicable procedures and guidelines.

- 20.2. The respective Department is responsible for monitoring and documenting Supplier performance and compliance with procurement contracts in accordance with the County's procedures and guidelines.

## **21. ALTERNATIVE DISPUTE RESOLUTION**

- 21.1. All Suppliers dealing with the County of bidding on potential contracts shall resolve any and all disputes they have specific to the competitive procurement process through the Alternative Dispute Resolution (ADR) process described in the Bid Solicitation and shall agree to such process as part of any response to the competitive procurement process.
- 21.2. The Award of any contract shall not be rescinded or the progress of any project delayed by a request for the use of the ADR unless recommended by the Procurement Manager, Department Manager/Head of the respective department, Director, and CAO.
- 21.3. Any Supplier that has asked to participate in the ADR process will be provided with information by Procurement Services to assist them to understand the Bid Solicitation process and to assist them to improve their future Bid submissions for the County.
- 21.4. Any Contract disputes that arise between the successful Bidder/Proponent and the County during the term of the Contract shall be handled through the Contract dispute process as outlined within the Bid Solicitation or Contract.

## **22. RECORDS RETENTION AND ACCESS TO INFORMATION**

- 22.1. All procurement activities must be supported by appropriate documentation and all records relating to a procurement process must be retained in accordance with the Procurement Procedures and Guidelines and the County's Record Retention By-Law and any associated records management policies and procedures.
- 22.2. Disclosure of information related to the County's procurement processes must be made in accordance with this By-Law, any applicable procurement procedures and guidelines, and the County's policies with respect to disclosure and protection of information in accordance with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) and the Personal Health Information Protection Act (PHIPA), as amended.

## **23. UNSOLICITED PROPOSALS**

- 23.1. All unsolicited proposals, including any offers for presentations or product/service trials submitted to the County with the expectation on the part of the submitter of obtaining consideration for an ensuing contract or purchase by the County, must be directed to the Procurement Services Department for review and approval for acceptance.
- 23.2. In the event that an actual goods/services product presentation or demonstration would be required in advance of a purchase decision, such presentation or demonstration should be included as part of the formal competitive bid process.
- 23.3. Any procurement resulting from the receipt of an unsolicited bid must comply with the provision of this Procurement By-Law.
- 23.4. In the absence of a competitive process, a contract may only be awarded in respect of an unsolicited proposal if a Non-Standard Procurement is permitted in accordance with this By-Law and all applicable procedures and guidelines.

## **24. ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES**

The County will promote, and incorporate, whenever possible, the requirements of the Ontarians with Disabilities Act, 2001 (ODA), the Accessibility for Ontarians with Disabilities Act, 2005 (AODA), in procurement activities of the County.

## **25. REVIEW OF BY-LAW**

- 25.1. The Procurement Manager shall submit to the appropriate standing committee of Council an annual report recommending any changes to the Procurement By-Law to meet the needs and requirements of the County to operate in an efficient and cost-effective manner and in accordance with all applicable laws.
- 25.2. All changes to the Procurement By-Law require Council approval.
- 25.3. All changes to the Procurement Procedures and Guidelines require the approval of the CAO.
- 25.4. A full By-Law review shall take place every five years.
- 25.5. The following schedules are attached hereto and form an integral part of this Procurement By-Law:
  - Schedule A – Statement of Ethics for Public Purchasers
  - Schedule B – Delegated Approval Authorities
  - Schedule C - Non-Standard Procurements

- Schedule D – Exemptions

25.6. By-Law 2017-33 is hereby repealed.

25.7 THAT this bylaw comes into force on the day it is passed.

25.8 This By-Law may be referred to as the "Procurement By-Law".

READ a first, second and third time and finally passed this 12<sup>th</sup> day of December, 2024.

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Warden



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Michelle Dunne, Clerk

## **SCHEDULE A – STATEMENT OF ETHICS FOR PUBLIC PURCHASERS**

**Goal:** To ensure ethical, professional, and accountable procurement.

All employees authorized to purchase Goods, Services and/or Construction on behalf of the County must adhere to the following principles, which are based on the tenets of the Ontario Public Buyer Association's Code of Ethics:

- a. **Open and Honest Dealings with Everyone who is Involved in the Purchasing Process. Procurement activities must be open and accountable.** This includes all businesses with which the County contracts or from which it purchases Goods, Services and/or Construction, as well as all members of our staff and of the public who utilize the services of the Procurement Services Department.
- b. **Fair and Impartial Award Recommendations for All Contracts and Tenders. Contracting and purchasing activities must be fair, transparent and conducted with a view to obtaining the best value for public money.** This means that County Staff do not extend preferential treatment to any vendor. Not only is it against the law, it is not good business practice, since it limits fair and open competition for all vendors and is therefore a detriment to obtaining the best possible value for each tax dollar.
- c. **An Irreproachable Standard of Personal Integrity on the Part of All Those Designated as Purchasing Representative for the County.** Individuals involved with procurement activities must act, and be seen to act, with integrity and professionalism. Honesty, care and due diligence must be integral to all procurement activities within and between the organization, suppliers and other stakeholders. Respect must be demonstrated for each other and for the environment. Confidential information must be safeguarded. Participants must 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.
- d. **Cooperation with Other Public Agencies in Order to Obtain the Best Possible Value for Every Tax Dollar.** The County is a member of a cooperative purchasing group made up of several public agencies, this group pools its expertise and resources in order to practise good value analysis and to purchase Goods, Services and/or Construction in volume and save tax dollars.

## SCHEDULE B – DELEGATED APPROVAL AUTHORITIES

ACQUISITION METHOD	PROCUREMENT VALUE (exclusive of applicable taxes)	Authority to Initiate Procurement Process	Facilitated By	Authority to Approve Award*
Low Dollar Value Procurement	\$0 - \$14,999	In accordance with Signing Authority Limits	Service Area	In accordance with Approved Signing Authority Limit
Request for Quotation (RFQ)**	\$15,000 - \$74,999	In accordance with Signing Authority Limits	Service Area – aided by Procurement as needed	In accordance with Approved Signing Authority Limit
Request for Quotation (RFQ)**	\$75,000 - \$99,999	In accordance with Signing Authority Limits	Procurement Services	In accordance with Approved Signing Authority Limit
Request for Tenders (RFT)**	\$100,000 +	In accordance with Signing Authority Limits	Procurement Services	In accordance with Approved Signing Authority Limit
Request for Proposals (NRFP/RFP)**	\$15,000 - \$99,999	In accordance with Signing Authority Limits	Procurement Services	In accordance with Approved Signing Authority Limit
Request for Proposals (NRFP/ RFP)**	\$100,000+	Department Manager/Head	Procurement Services	In accordance with Approved Signing Authority Limit
Request for Prequalification (RFPQ)	Not Applicable	Department Manager/Head	Procurement Services	In accordance with Approved Signing Authority Limit
Request for Information (RFI)	Not Applicable	Department Manager/Head	Procurement Services	N/A
Non-Standard Procurement**	\$15,000 - \$49,999	Department Manager/Head	Service Area	Director
Non-Standard Procurement**	\$50,000 +	Department Manager/Head	Procurement Services	Council
Emergency Purchase	\$15,000 +	CAO	Service Area	CAO

\* The individual(s) identified above for the Authority to Approve Award and Authority to Approve PO is based on the Signing Authority Limit, as outlined in the 'Department Signing List'. If the procurement value exceeds the identified individual's signing authority limit, the Director would become responsible.

\*\* This table depicts acquisitions conducted within Council Approved Budget. For acquisitions outside of approved budget, please refer to section 17.4 of this By-Law, as well as any applicable Procedures and Guidelines.

## **SCHEDULE C – NON-STANDARD PROCUREMENTS**

A Non-Standard Procurement may be conducted using a Sole Source or Single Source only when one or more of the conditions listed below apply.

Approval Authority for Non-Standard Procurement shall be in accordance with Schedule B.

1. **Sole Source** – The Goods and/or Services are available from only one Supplier due to one of the following reasons:
  - a) a statutory or market-based monopoly; or
  - b) scarcity of supply in the market; or
  - c) the existence of exclusive rights such as patent, copyright or license; or
  - d) the complete item, service, or system is unique to one Supplier and no alternative or substitute exists.
2. **Single Source** – The Goods and/or Services are available from more than one source, however there is sufficient rationale for awarding to one particular Supplier due to one of the following reasons:
  - a) an attempt to acquire the Goods and/or Services through a Competitive Procurements process has been made in good faith, yet has failed to identify a willing, capable and compliant Supplier; or
  - b) the confidential nature of the requirement is such that it would not be in the best interest of the County or public to solicit competitive Bids; or
  - c) the solicitation of competitive Bids would not be economical to the County; or
  - d) construction/renovations/repairs/maintenance etc. is for building leased by the County and may only be done by the lessor of the building, in accordance with a lease agreement; or
  - e) the Goods are purchased under circumstances which are exceptionally advantageous to the County, such as in the case of a bankruptcy or receivership; or
  - f) it is advantageous to the County to acquire the Goods and/or Services directly from another public body or public service body; or

- g) another organization is funding or substantially funding the Procurement and has determined the Supplier, and the terms and conditions of the commitment into which the County will enter are acceptable to the County; or
- h) a need exists for compatibility with, or for the maintenance and support of a County standard and there are no reasonable alternatives, substitutes, or accommodations; or
- i) a need exists to avoid violating warranties and guarantees where support or service is required; or
- j) the Procurement is otherwise exempt from Open Competition requirements under all applicable trade agreements and it is in the best interests of the County to proceed with a non-standard procurement.



## **SCHEDULE D – EXEMPTIONS**

This By-Law does not apply to the acquisition of the following goods or services:

### **1) Employer's General Expenses**

- Payroll deduction remittances
- Refundable employee expenses (advances, meal allowances, travel, misc.)
- Licenses (Vehicle, Elevators, Radios, Software, etc.)
- Debenture payments
- Grants, loans, levies, and donations
- Payments of damages
- Tax remittances
- Workers Safety Insurance Board payments
- Health benefits
- Insurance premiums
- Legal settlements
- Real property payments
- Arbitration awards

### **2) Training and Education**

- Conferences, courses, conventions, and seminars
- Memberships
- Periodicals, magazines, books and newspapers
- Staff training, development, and workshops
- Subscriptions

### **3) Professional and Special Services**

- Medical and Laboratory Professionals
- Lawyers, Notaries, Mediators, and Arbitrators
- Health Services
- Social Services
- Recreation Instructor Fees
- Honoraria
- Financial Services
- Courier Services
- Accommodations provided as part of County-approved programs and projects for the homeless and others living in poverty
- Vouchers provided by Community Services as part of County-approved programs and projects

#### 4) Utilities

- Hydro
- Postage
- Water and Wastewater
- Natural Gas/Propane
- Communications (voice and data network communications)
- Cable television
- Removal, relocation, identification or engineering of utility infrastructure

#### 5) Public Agencies, Special Interest Groups, and Aboriginal Peoples

- Where use of central service is mandatory
- Where the procurement is between public organizations or with a non-profit organization
- Where the goods or services are purchased from philanthropic institutions, prison labour, or persons with disabilities
- Where a procurement is made pursuant to an agreement or a policy concerning Aboriginal Peoples

#### 6) Other

- Antiques and artifacts (does not include restoration)
- Acquisition of art
- Goods for the purpose of retail sales by the County (not including the following: items that bear the County logo or insignia, food or beverage)
- Media advertising
- Venues (including food and beverage where off site catering is not permitted) for banquets, meetings, events, receptions and training
- Admission to tourism attractions and destination for recreational and social programs
- Real Estate sale transaction